

OFFICE OF ADMINISTRATIVE LAW

300 Capitol Mall, Suite 1250
Sacramento, CA 95814
(916) 323-6225 FAX (916) 323-6826



DEBRA M. CORNEZ
Director

MEMORANDUM

TO: Matt Dias
FROM: OAL Front Desk *SD*
DATE: February 20, 2017
RE: Return of Rulemaking Materials
OAL Matter Number 2017-0105-02
OAL Matter Type Nonsubstantive (N)

OAL hereby returns the rulemaking record your agency submitted for review regarding "'Rule Alignment, 2017'."

If this is an approved matter, it contains a copy of the regulation(s) stamped "ENDORSED APPROVED" by the Office of Administrative Law and "ENDORSED FILED" by the Secretary of State. The effective date of an approved regulation is specified on the Form 400 (see item B.5). **Beginning January 1, 2013**, unless an exemption applies, Government Code section 11343.4 states the effective date of an approved regulation is determined by the date the regulation is filed with the Secretary of State (see the date the Form 400 was stamped "ENDORSED FILED" by the Secretary of State) as follows:

- (1) **January 1** if the regulation or order of repeal is filed on September 1 to November 30, inclusive.
- (2) **April 1** if the regulation or order of repeal is filed on December 1 to February 29, inclusive.
- (3) **July 1** if the regulation or order of repeal is filed on March 1 to May 31, inclusive.
- (4) **October 1** if the regulation or order of repeal is filed on June 1 to August 31, inclusive.

If an exemption concerning the effective date of the regulation approved in this matter applies, then it will be specified on the Form 400. The Notice of Approval that OAL sends to the agency will include the effective date of the regulation. The history note that will appear at the end of the regulation section in the California Code of Regulations will also include the regulation's effective date. Additionally, the effective date of the regulation will be noted on OAL's web site after OAL posts the Internet Web site link to the full text of the regulation that is received from the agency. (Gov. Code, secs. 11343 and 11344.)

Please note this new requirement: Unless an exemption applies, Government Code section 11343 now requires:

1. **Section 11343(c)(1):** Within 15 days of OAL filing a state agency's regulation with the Secretary of State, the state agency is required to post the regulation on its Internet Web site in an easily marked and identifiable location. The state agency shall keep the regulation posted on its Internet Web site for at least six months from the date the regulation is filed with the Secretary of State.
2. **Section 11343(c)(2):** Within five (5) days of posting its regulation on its Internet Web site, the state agency shall send to OAL the Internet Web site link of each regulation that the agency posts on its Internet Web site pursuant to section 11343(c)(1).

OAL has established an email address for state agencies to send the Internet Web site link to for each regulation the agency posts. Please send the Internet Web site link for each regulation posted to OAL at postedregslink@oal.ca.gov.

NOTE ABOUT EXEMPTIONS. Posting and linking requirements do not apply to emergency regulations; regulations adopted by FPPC or Conflict of Interest regulations approved by FPPC; or regulations not subject to OAL/APA review. However, an exempt agency may choose to comply with these requirements, and OAL will post the information accordingly.

DO NOT DISCARD OR DESTROY THIS FILE

Due to its legal significance, you are required by law to preserve this rulemaking record. Government Code section 11347.3(d) requires that this record be available to the public and to the courts for possible later review. Government Code section 11347.3(e) further provides that "...no item contained in the file shall be removed, altered, or destroyed or otherwise disposed of." See also the State Records Management Act (Government Code section 14740 et seq.) and the State Administrative Manual (SAM) section 1600 et seq. regarding retention of your records.

If you decide not to keep the rulemaking records at your agency/office or at the State Records Center, you may transmit it to the State Archives with instructions that the Secretary of State shall not remove, alter, or destroy or otherwise dispose of any item contained in the file. See Government Code section 11347.3(f).

Enclosures

RECEIVED BY
FEB 21 2017

RECEIVED BY
State of California
Office of Administrative Law

RECEIVED BY
FEB 27 2017

In re: Board of Forestry and Fire Protection

Regulatory Action:

Title 14, California Code of Regulations

Amend sections: 895, 895.1, 898.2, 912.5,
913.4, 914.1, 915.3, 916.2,
916.5, 916.8, 916.9, 916.11,
919.2, 919.3, 919.5, 919.9,
919.11, 919.12, 921.1,
921.6, 926.3, 927.12, 953.9,
959.15, 961.1, 1020,
1024.5, 1036.1, 1037.3,
1037.5, 1051, 1051.1,
1051.4, 1051.5, 1052.3,
1052.4, 1052.5, 1054.3,
1055, 1055.2, 1056, 1056.1,
1056.2, 1056.3, 1090.5,
1090.10, 1090.17, 1092.16,
1092.18, 1092.27, 1100,
1153

Repeal sections: 926.21

NOTICE OF APPROVAL OF CHANGES
WITHOUT REGULATORY EFFECT

California Code of Regulations, Title 1,
Section 100

OAL Matter Number: 2017-0105-02

OAL Matter Type: Nonsubstantive (N)

This action by the State Board of Forestry and Fire Protection updates cross-references, citations, and acronyms and makes other non-substantive changes to a host of sections in title 14 of the California Code of Regulations.

OAL approves this change without regulatory effect as meeting the requirements of California Code of Regulations, title 1, section 100.

Date: February 17, 2017


Eric Partington
Senior Attorney

For: Debra M. Cornez
Director

Original: Matt Dias
Copy: Matt Dias

NOTICE PUBLICATION/REGULATION SUBMISSION

See instructions on
revers

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE
NUMBERS

NOTICE FILE NUMBER

REGULATORY ACTION NUMBER

EMERGENCY NUMBER

Z-

2017-0105-02N

For use by Office of Administrative Law (OAL) only

NOTICE

OFFICE OF
ADMINISTRATIVE LAW
REGULATIONS

ENDORSED - FILED

In the office of the Secretary of State
of the State of California

FEB 17 2017

2:03 PM

AGENCY WITH RULEMAKING AUTHORITY

Board of Forestry and Fire Protection

AGENCY FILE NUMBER (if any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER		PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) "Rule Alignment, 2017"	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (including title 26, if toxics related)	ADOPT
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	AMEND See Attached Sheet.
TITLE(S) 14	REPEAL See Attached Sheet.

3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input checked="" type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Other (Specify)	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input type="checkbox"/> Effective on filing with Secretary of State	<input checked="" type="checkbox"/> \$100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify)

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal	
<input type="checkbox"/> Other (Specify)			

7. CONTACT PERSON Matt Dias	TELEPHONE NUMBER 916-653-8007	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) matt.dias@bof.ca.gov
--------------------------------	----------------------------------	-----------------------	---

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE 	DATE 01/05/2016
TYPED NAME AND TITLE OF SIGNATORY Matt Dias, Executive Officer, Board of Forestry and Fire Protection	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

FEB 17 2017

Office of Administrative Law

AMEND SECTIONS 895, 895.1, 898.2, 912.5, 913.4, 914.1, 915.3, 916.2, 916.5, 916.8, 916.9, 916.11, 919.2, 919.3, 919.5, 919.9, 919.11, 919.12, 921.1, 921.6, 926.3, 927.12, 953.9, 959.15, 961.1, 1020, 1024.5, 1036.1, 1037.3, 1037.5, 1051, 1051.1, 1051.4, 1051.5, 1052.3, 1052.4, 1052.5, 1054.3, 1055, 1055.2, 1056, 1056.1, 1056.2, 1056.3, 1090.5, 1090.10, 1090.17, 1092.16, 1092.18, 1092.27, 1100, 1153

REPEAL SECTION 926.21

OFFICE OF ADMINISTRATIVE LAW

300 Capitol Mall, Suite 1250
Sacramento, CA 95814
(916) 323-6225 FAX (916) 323-6826

RECEIVED BY

FEB 27 2017

ERRATUM NOTUS**California Code of Regulations**

BOARD OF FORESTRY AND FIRE PROTECTION

ENDORSED - FILEDin the office of the Secretary of State
of the State of California

FEB 23 2017

1:53pm

To: Secretary of State**From:** Eric Partington, Senior Attorney**Date:** 2/23/2017**Re:** OAL matter no. 2017-0105-02N, corrected text of 14 CCR § 895.1 (p. 4 of 55)

To Whom It May Concern:

The regulation text filed in the above-referenced action on February 17, 2017, contains an error. The filed text includes the repeal of the definition of "Fire Protection Zone" in section 895.1 of title 14 of the CCR. However, this definition was inadvertently depicted as repealed text (shown in strike-through) and, in fact, should not have been included in this action, as the Board of Forestry and Fire Protection intends that the definition remain in place.

Attached is a corrected copy of page 4 (of 55) of the final text, with the definition of "Fire Protection Zone" removed. (Extra spacing appears on the page in order to ensure that the pagination of subsequent text remains unchanged.) A copy of the endorsed Form 400 for this action is also included for reference. Please ensure that the corrected text and this communication are retained with the original, endorsed Form 400 and regulation text in your records.

Please contact me directly if you have any questions. I can be reached by email at eric.partington@oal.ca.gov, or by phone at (916) 322-3761.

Thank you,

Eric Partington

Amend:

§ 895.1. Definitions.

The definitions contained in the Z'berg-Nejedly Forest Practice Act of 1973 as amended (commencing with PRC § 4511) shall apply to this chapter, as well as the following definitions, unless the context clearly requires otherwise.

"Active nest" means a bird nest site at which breeding efforts have recently occurred as determined by the CDFW ~~Department of Fish and Game~~, as specified below:

"Cutover land" _____ 4522.5

"Perch tree" means a tree or snag identified and designated by the RPF or supervised designee in consultation with the CDFW ~~Department of Fish and Game~~ as utilized periodically by a species of special concern for nesting, territorial defense, or as an approach to its nest or feeding area.

"Replacement Tree" means a tree or snag within the nest site of a species of special concern identified and designated by the RPF or supervised designee in consultation

STD. 400 (REV. 01-2013)

OAL FILE
NUMBERS

NOTICE FILE NUMBER

Z-

REGULATORY ACTION NUMBER

2017-0105-02N

EMERGENCY NUMBER

For use by Office of Administrative Law (OAL) only

NOTICE

AGENCY WITH RULEMAKING AUTHORITY

Board of Forestry and Fire Protection

ENDORSED - FILED

In the office of the Secretary of State
of the State of California

FEB 17 2017

2:03 PM

JAN -5 P 1:02
OFFICE OF
ADMINISTRATIVE LAW

AGENCY FILE NUMBER (if any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) "Rule Alignment, 2017"	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT
		AMEND
		REPEAL
	14	See Attached Sheet.

3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §511346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input checked="" type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §511349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Other (Specify)	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)
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5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input type="checkbox"/> Effective on filing with Secretary of State	<input checked="" type="checkbox"/> §100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify)

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM 56660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal	
<input type="checkbox"/> Other (Specify)			

7. CONTACT PERSON Matt Dias	TELEPHONE NUMBER 916-653-8007	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) matt.dias@bof.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE 	DATE 01/05/2016
TYPED NAME AND TITLE OF SIGNATORY Matt Dias, Executive Officer, Board of Forestry and Fire Protection	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

FEB 17 2017

Office of Administrative Law

Board of Forestry and Fire Protection

"Rule Alignment, 2017"

Title 14 of the California Code of Regulations (14 CCR),

Division 1.5, Chapter 4,

Subchapter 1, Article 1;

Subchapter 2, Article 2;

Subchapter 4, Article 2;

Subchapter 4, Article 3;

Subchapter 4, Article 4;

Subchapter 4, Article 5;

Subchapter 4, Article 6;

Subchapter 4, Article 9;

Subchapter 4, Article 11;

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Subchapter 4, Article 13;

Subchapter 6, Article 3;

Subchapter 6, Article 9;

Subchapter 6, Article 11;

Subchapter 7, Article 1;

Subchapter 7, Article 2;

Subchapter 7, Article 3;

Subchapter 7, Article 6;

Subchapter 7, Article 6.5;

Subchapter 7, Article 6.75;

Subchapter 7; Article 6.8;

Subchapter 7, Article 7;

Division 1.5, Chapter 5,

Subchapter 3.

Amend:

§ 895. Abbreviations Applicable Throughout Chapter.

The following abbreviations are applicable throughout this chapter:

CDFW California Department of Fish and Wildlife (formerly
DFG)

CGS California Geological Survey

SOD Sudden Oak Death

SWRCB State Water Resources Control Board

USFWS U. S. Fish and Wildlife Service

Note: Authority cited: Sections 4551, 4551.5 and 21082, Public Resources Code.

Reference: Sections 4511, 4512, 4513, 4521.3, 4522, 4522.5, 4523-4525, 4525.3,
4525.5, 4525.7, 4526, 4526.5, 4527, 4527.5, 4528, 4551, 4551.5, 4552, 4582, 4750,
4750.3, 4750.4 and 21080.5, Public Resources Code.

Amend:

§ 895.1. Definitions.

The definitions contained in the Z'berg-Nejedly Forest Practice Act of 1973 as amended (commencing with PRC § 4511) shall apply to this chapter, as well as the following definitions, unless the context clearly requires otherwise.

"Active nest" means a bird nest site at which breeding efforts have recently occurred as determined by the CDFW~~Department of Fish and Game~~, as specified below:

~~"Cutover land"~~ 4522.5

~~"Fire Protection Zone" means that portion of the logging area within 100 feet (30.48 m) as measured along the surface of the ground, from the edge of the traveled surface of all public roads and railroads; and within 200 feet (60.96 m) as measured along the surface of the ground, from permanently located structures currently maintained for human habitation.~~

"Perch tree" means a tree or snag identified and designated by the RPF or supervised designee in consultation with the CDFW~~Department of Fish and Game~~ as utilized periodically by a species of special concern for nesting, territorial defense, or as an approach to its nest or feeding area.

"Replacement Tree" means a tree or snag within the nest site of a species of special concern identified and designated by the RPF or supervised designee in consultation

1 with the ~~CDFW~~Department of Fish and Game as being suitable as a replacement for a
2 nest or perch tree should the existing tree become unusable.

3 *****

4 "Screening trees" means those trees or snags identified and designated by the RPF or
5 supervised designee in consultation with the ~~CDFW~~Department of Fish and Game as
6 necessary to protect nest trees of species of special concern from the impacts of human
7 activities and natural elements.

8 *****

9 "Spotted Owl Expert" means a person with at least a Bachelor of Science degree in
10 Wildlife Biology, Biology, Forestry, Zoology or related field and a minimum of five field
11 seasons of verifiable northern spotted owl survey and biological evaluation work. The
12 SOE shall possess sufficient experience, knowledge and education in order to analyze
13 data from field conditions and present written information which substantiates why harm
14 and harassment of the northern spotted owl associated with timber operations will be
15 avoided. The individual shall be able to verify such experience, knowledge and
16 education upon the Director's request. The Director shall refer all SOE qualifications
17 received to the ~~U.S. Fish and Wildlife Service~~USFWS and ~~CDFW~~Department of Fish
18 and Game for evaluation of qualifications.

19 *****

20 "*Watersheds with Coho Salmon*" means any planning watershed(s) where coho salmon
21 (*Oncorhynchus kisutch*) have been documented by the ~~CDFW~~Department of Fish and
22 Game to be present during or after 1990. In Watersheds with Coho Salmon, the
23 following definitions apply:

24
25 *****

Note: Authority cited: Sections 4551, 4551.5, 4553, 4561, 4561.5, 4562, 4562.5, 4562.7 and 4591.1, Public Resources Code. Reference: Sections 4512, 4513, 4525.5, 4525.7, 4526, 4528, 4551, 4551.5, 4561, 4562, 4562.5, 4562.7, 4583.2, 4584, 4591.1, 21001(f), 21080.5, 21083.2 and 21084.1, Public Resources Code; CEQA Guidelines Appendix K (printed following Section 15387 of Title 14 Cal. Code of Regulations), *Laupheimer v. State* (1988) 200 Cal.App.3d 440; 246 Cal.Rptr. 82 and *Joy Road Area Forest and Watershed Association, v. California Department of Forestry & Fire Protection*, Sonoma County Superior Court No. SCV 229850.

Amend:

§ 898.2. Special Conditions Requiring Disapproval of Plans.

(e) Implementation of the plan would irreparably damage plant species listed as rare or endangered by the ~~CDFW Department of Fish and Game~~ and when the timber owner fails to comply with F&GC § 1913.

Note: Authority cited: Sections 4551, 4555 and 4582, Public Resources Code. Reference: Sections 2053, 2080.1, 2090-2097, 2830 and 2835, Fish and Game Code; Sections 4555, 4582.7 and 4582.75, Public Resources Code; Section 51115.1, Government Code; the federal Endangered Species Act of 1973, 16 U.S.C. Section 1531 et seq.; and *Laupheimer v. State* (1988) 200 Cal.App.3d 440; 246 Cal.Rptr. 82.

Amend:

§ 912.5. Procedure for Estimating Surface Soil Erosion Hazard Rating.

1 A proposed plan shall show the estimated erosion hazard rating of the plan area, by
2 areas, down to 20 acres (8.1 ha) if such a breakdown will change the estimated erosion
3 hazard of individual areas. The plan shall show high and extreme erosion hazard
4 ratings, by areas, down to 10 acres if such a breakdown will change the erosion hazard
5 of the individual areas. Specific erosion hazard areas not fitting the above minimum will
6 be considered independently and protective measures commensurate with the problem
7 applied. These measures are covered in Chapter 4, Subchapter 4 of Title 14, CCR.

8 To estimate the erosion hazard rating of any plan or portion thereof, the RPF or
9 supervised designee shall follow the procedures and requirements contained in Board
10 Technical Rule Addendum #1, dated February 1, 1990. Appropriate weights for the
11 factors in the Estimated Surface Soil Erosion Hazard, Form I, in the Addendum, shall be
12 calculated and the factors shall be summed to give the rating. A copy of the calculations
13 from Form I shall be attached to the timber harvesting plan. A copy of the Board
14 Technical Rule Addendum #1 can be obtained from the State Board of Forestry and
15 Fire Protection at the State of California Resources Building, 1416 9th Street, Room
16 1506-14, P.O. Box 944246, Sacramento, CA 9581494244-2460.

17
18 Note: Authority cited: Sections 4551 and 4562.5, Public Resources Code. Reference:
19 Section 4562.5, Public Resources Code
20

21
22 **Amend:**

23 **§ 913.4. Special Prescriptions.**

24 *****
25

1 (b)(2) On understocked timberlands where no countable conifer trees are to be
2 harvested and the broadleaf species are not designated for management, the area shall
3 be planted to equal or exceed the stocking standards of 14 CCR 912.7(b)(1) and shall
4 be considered acceptably stocked if within five years of completion of timber operations
5 it contains at least an average point count of 150 of Group A species on all site
6 classifications.

7 *****

8
9 (e)(6) For projects of twenty (20) acres or less in size, the RPF has the option to not
10 include the requirements of 14 CCR §§ 913.4, 933.4, and 953.4, subsections (e)(4) and
11 (5) if the RPF consults with CDFGW prior to plan submittal and, if wet areas are
12 proposed, the RPF shall also consult with the appropriate RWQCB in those locations
13 where the applicable basin plan identifies wet areas as a beneficial use. The results of
14 the consultation(s) shall be included in the plan.

15 *****

16 Note: Authority cited: Sections 4551 and 4553, Public Resources Code. Reference:
17 Sections 4512, 4551.5, 4561, 4561.2, 4582 and 4582.5, Public Resources Code.

18
19 **Amend:**

20 **§ 914.1. Felling Practices.**

21 The following standards are applicable to felling practices:

22 (a) To the fullest extent possible and with due consideration given to topography, lean of
23 trees, landings, utility lines, local obstructions, and safety factors, trees shall be felled to
24 lead in a direction away from watercourses and lakes.

1 (b) Desirable residual trees and tree seedlings of commercial species, and those oak
2 trees requiring protection pursuant to 14 CCRGAC § 953.10 shall not be damaged or
3 destroyed by felling operations, except where unavoidable due to safety factors, lean of
4 trees, location of obstructions or roads, or lack of sufficient openings to accommodate
5 felled trees.

6 (c) Trees shall be felled in conformance with watercourse and lake protection measures
7 incorporated in timber harvesting plans and consistent with Article 6 of these rules.

8 (d) Felling practices shall conform to requirements of ~~914.4, 934.4, 954.4~~ 14 CCR §§
9 919.2, 939.2, 959.2 to protect bird nesting sites.

10
11 Note: Authority cited: Sections 4551, 4551.5, 4553, 4562.5 and 4562.7, Public
12 Resources Code. Reference: Sections 4512, 4513, 4562.5, 4562.7, 4581, 4582 and
13 4582.5, Public Resources Code.

14
15
16 **Amend:**

17 **§ 915.3. Protection of Natural Resources.**

18 (a) Site preparation activities shall comply with the watercourse and lake protection
19 requirements in 14 CCR Article 6 and § 917.3.

20 (b) Site preparation activities shall comply with the wildlife and habitat protection
21 provisions of 14 CCR Article 9.

22 (c) Site preparation shall performed in a manner which does not deleteriously affect
23 species which are threatened, endangered, or designated by the Board as species of
24 special concern. The director may allow exceptions to this standard in the plan, after
25

consultation with the CDFW ~~Department of Fish and Game~~ pursuant to the California
Endangered Species Act (F&G Code 2050-2098).

Note: Authority cited: Sections 4551, 4551.5 and 4551.7, Public Resources Code.
Reference: Sections 4512, 4513, 4527, 4551.5, 4551.7, 4562.5 and 4562.7, Public
Resources Code.

Amend:

§ 916.2. Protection of the Beneficial Uses of Water and Riparian Functions.

(a)(2) The existing and restorable uses of water for fisheries as identified by the
CDFGW or as further identified and refined during preparation and review of the plan.

Note: Authority cited: Sections 4551, 4562.7 and 21000(g), Public Resources Code.
Reference: Sections 751, 4512, 4513, 4551.5, 21000(g), 21001(b) and 21002.1, Public
Resources Code; Sections 100, 1243, 13050(f), Water Code; and Sections 1600 and
5650(c), Fish and Game Code.

AMEND:

**§ 916.5. Procedure for Determining Watercourse and Lake Protection Zone
(WLPZ) Widths and Protective Measures.**

(e) The letter designations shown in the "Protective Measures and Widths" column in
Table I correspond to the following:

1 "A" WLPZ shall be clearly identified on the ground by the RPF who prepared the plan, or
2 supervised designee, with paint, flagging, or other suitable means prior to the
3 preharvest inspection. For nonindustrial timber management plans, sample identification
4 of the WLPZ prior to the preharvest inspection may be allowed. The sample shall be
5 based upon a field examination and be consistent with the applicable provisions of 14
6 CCR §§ 916.4 and 916.5, representing the range of conditions found within the WLPZ.
7 The Director shall determine if the sample identification is adequate for plan evaluation
8 during the preharvest inspection. If sample identification is allowed, the remaining
9 WLPZ shall be identified by an RPF or supervised designee prior to the start of timber
10 operations within or adjacent to the WLPZ. The RPF shall notify the Department when
11 the WLPZ has been identified.

12 "B" WLPZ shall be clearly identified on the ground by an RPF or supervised designee,
13 with paint, flagging, or other suitable means, prior to the start of timber operations. In
14 watersheds with listed anadromous salmonids, on the ground identification of the WLPZ
15 shall be completed prior to the preharvest inspection. For all nonindustrial timber
16 management plans, sample identification of the WLPZ prior to the preharvest inspection
17 may be allowed. The sample shall be based upon a field examination and be consistent
18 with the applicable provisions of 14 CCR §§ 916.4 and 916.5, representing the range of
19 conditions found within the WLPZ. The Director shall determine if the sample
20 identification is adequate for plan evaluation during the preharvest inspection. If sample
21 identification is allowed, the remaining WLPZ shall be identified by an RPF or
22 supervised designee prior to the start of timber operations within or adjacent to the
23 WLPZ. The RPF shall notify the Department when the WLPZ has been identified.

1 "C" In site-specific cases, the RPF may provide in the plan, or the director may require,
2 that the WLPZ be clearly identified on the ground with flagging or by other suitable
3 means prior to the start of timber operations.

4 "D" To ensure retention of shade canopy filter strip properties of the WLPZ and the
5 maintenance of a multi-storied stand for protection of values described in 14 CCR §
6 916.4(b), residual or harvest trees shall be marked, including a base mark below the
7 cut-line within the WLPZ by the RPF, or supervised designee. Outside of watersheds
8 with listed anadromous salmonids, sample marking prior to the preharvest inspection is
9 satisfactory in those cases where the Director determines it is adequate for plan
10 evaluation. When sample marking has been used, the remaining WLPZ shall be marked
11 in advance of falling operations by the RPF, or supervised designee. In watersheds with
12 listed anadromous salmonids~~threatened or impaired values~~, trees shall be marked in
13 advance of the preharvest inspection. For all nonindustrial timber management plans,
14 sample marking of the WLPZ prior to the preharvest inspection may be allowed. The
15 sample shall be based upon a field examination and shall be consistent with the
16 applicable provisions of 14 CCR §§ 916.4 and 916.5, representing the range of
17 conditions found within the WLPZ. The Director shall determine if the sample mark is
18 adequate for plan evaluation during the preharvest inspection. If sample marking is
19 allowed, the remaining WLPZ shall be marked by an RPF, or supervised designee, prior
20 to the start of timber operations within or adjacent to the WLPZ. The RPF shall notify the
21 Department when the WLPZ has been identified.

22
23 *****
24
25

Note: Authority cited: Sections 4551, 4562.7 and 21000(g), Public Resources Code.
Reference: Sections 4513, 4551.5 and 21001(f), Public Resources Code; Sections 100, 13000 and 13050(f), Water Code; and 33 USC Section 1288(b)(2)(F).

Amend:

§ 916.8. Sensitive Watersheds.

(c) Screening Process:

Before consideration by the Board, nominations shall be screened for compliance with the informational requirements by a nominations review committee, which may consist of the appropriate District Technical Advisory Committee or other Board Committee, as determined by the Board. The nominations review committee shall consult with CDF, the appropriate RWQCB, the CDFW~~Department of Fish and Game~~, the ~~Division of Mines and Geology~~CGS, and other(s) as deemed necessary to determine whether the nomination is supported by substantial evidence. The nominations review committee shall then forward a recommendation for approval or denial of the nomination to the Board within 120 days of the date of receipt by the committee, or such longer time provided by the Board. The nominations review committee shall describe its specific reason(s) for recommending approval or denial of the nomination. In the event that the committee forwards a recommendation for approval, it shall describe the substantial evidence which supports nomination, including specific reasons why the current forest practice rules are inadequate to protect the specific resources at risk and shall provide the following information:

1 *****

2 Note: Authority cited: Sections 4551, 4562.7, 21000(g) and 21160, Public Resources
3 Code. Reference: Sections 4512, 4513, 4551.5, 21000(b), (f), 21002 and 21002.1,
4 Public Resources Code; and 33 USC 1288(b)(2)(F).

5
6 **Amend:**

7 **§ 916.9. Protection and Restoration of the Beneficial Functions of the Riparian**
8 **Zone in Watersheds with Listed Anadromous Salmonids.**

9 *****

10 (e)(1)(A) Actions directed to improve salmonid habitat with review and concurrence by
11 CDFGW.

12 *****

13 (s)(6) Harvesting recommended in writing by CDFGW to address specifically identified
14 forest conditions.

15 *****

16 (t)(6) Harvesting recommended in writing by CDFGW to address specifically identified
17 forest conditions.

18 *****

19 (v)(2) Measures or provisions proposed pursuant to 14 CCR § 916.9, subsections (v)
20 shall only be approved when the plan incorporates an evaluation of the beneficial
21 functions of the riparian zone as set forth in subsection (3) below. In the event of
22 measures limited in applicability to specific sites, the submitter may instead of an
23 evaluation, obtain written concurrence from CDFGW prior to plan submittal. RPFs may
24 request a preconsultation for the site specific plan and the Director may agree and
25 request staff from responsible agencies.

1 *****

2 (v)(5)(I) The site-specific plan for Class I riparian management must: (1) have Review
3 Team agencies pre-consultation and receive concurrence from the Review Team
4 agencies, including CDFGW, and (2) include a monitoring component.

5 *****

6 (v)(7)(A) The rules contained in Subchapter 2 (Application of Forest Practice Rules);
7 Article 2 (Ratings and Standards) and Article 11 (Coastal Commission Special
8 Treatment Areas) of Subchapter 4 (Coast Forest District Rules); Article 2 (Ratings and
9 Standards) of Subchapter 5 (Northern Forest District Rules); Article 2 (Ratings and
10 Standards) and Article 11 (Coastal Commission Special Treatment Areas) of
11 Subchapter 6 (Southern Forest District Rules); and Subchapter 7 (Administration) of
12 Chapter 4, Division 1.5 of Title 14 of the California ~~Administrative Code~~ of Regulations;
13 or

14 (B) Any Forest Practice Rule pertaining to the width of the special treatment area
15 adjacent to a wild and scenic river declared pursuant to PRC § 5093.50, et seq.; or

16 (C) Any Forest Practice Rules or parts of rules that incorporate practices or standards
17 specified in the ~~Forest Practice Act~~ FPA.

18 (8) The Director shall not accept for inclusion in a plan any site-specific measures or
19 non-standard operational provisions as described in this section where the
20 ~~CDFW Department of Fish and Game~~ or where two or more agencies listed in PRC §
21 4582.6 and 14 CCR § 1037.3 have submitted written comments which lead to the
22 Director's conclusion that the proposed measures or provisions will not meet the goal of
23 this section and the agencies participated in the review of the plan, including an on-the-
24 ground inspection.

25 *****

(w) Except when expressly required by 14 CCR § 916.9, subsections (w)(1)-(5) below, the provisions of 14 CCR § 916.9 shall not apply to a plan that is subject to:

- (1) a valid incidental take permit issued by CDFGW pursuant to Section 2081(b) of the ~~Fish and Game Code~~F&GC that addresses anadromous salmonid protection; or
- (2) a federal incidental take statement or incidental take permit that addresses anadromous salmonid protection, for which a consistency determination has been made pursuant to Section 2080.1 of the ~~Fish and Game Code~~F&GC; or
- (3) a valid natural community conservation plan that addresses anadromous salmonid protection approved by CDFGW under section 2835 of the ~~Fish and Game Code~~F&GC; or
- (4) a valid Habitat Conservation Plan that addresses anadromous salmonid protection, approved under Section 10 of the federal Endangered Species Act of 1973; or
- (5) project revisions, guidelines, or take avoidance measures pursuant to a memorandum of understanding or a planning agreement entered into between the plan submitter and CDFGW in preparation of obtaining a natural community conservation plan that addresses anadromous salmonid protection.

Note: Authority cited: Sections 4551, 4562.7 and 21000(g), Public Resources Code.
Reference: Sections 751, 4512, 4513, 4551.5, 4750, 4750.3, 4750.4, 21000(g), 21001(b) and 21002.1, Public Resources Code; Sections 100, 1243 and 13050(f), Water Code; and Sections 1600 and 5650(c), Fish and Game Code

Amend:

§ 916.11. Effectiveness and Implementation Monitoring.

(a) Where timber operations will be conducted within a WLPZ, the Director may require a post-harvest evaluation of the effectiveness of the mitigations and practices designed to protect the watercourse(s) or lake(s) as a condition of plan approval. The Director shall require such an evaluation if the necessity for the evaluation is supported by substantial evidence in the record. This evidence may include, but is not limited to, potential land failures, accelerated rate of road construction or harvesting within a watershed, concentration or intensity of harvesting activity near watercourses, and potential for accelerated windthrow. The design and implementation of the evaluation shall be done in consultation with the Director, the RWQCB or CDFGW, and THP submitter, and the sufficiency of the information requested by the Director shall be judged in light of reasonableness and practicality. The evaluation may utilize procedures including, but not limited, to:

- (1) Procedures for effectiveness and implementation monitoring,
- (2) Existing landowner monitoring programs, or
- (3) Photographic monitoring

Note: Authority cited: Sections 4551, 4562.7 and 21000(g), Public Resources Code.
Reference: Sections 751, 4512, 4513, 4551.5, 21000(g), 21001(b) and 21002.1, Public Resources Code; Sections 100, 1243 and 13050(f), Water Code; and Sections 1600 and 5650(c), Fish and Game Code.

Amend:

§ 919.2. General Protection of Nest Sites.

The following general standards for protection of Sensitive species shall apply.

(a) A pre-harvest inspection will normally be required when it is known or suspected that the minimum buffer zone surrounding an active nest of a Sensitive species is in or extends onto an area proposed for timber operations. When the ~~California Department of Forestry~~CDF is already familiar with the site, the Director, after consultation with the ~~CDFW Department of Fish and Game~~, may waive this requirement.

(b) During timber operations, nest tree(s), designated perch tree(s), screening tree(s), and replacement tree(s), shall be left standing and unharmed except as otherwise provided in these following rules.

(c) Timber operations shall be planned and operated to commence as far as possible from occupied nest trees unless explained and justified by the RPF in the THP.

(d) When an occupied nest site of a listed bird species is discovered during timber operations, the timber operator shall protect the nest tree, screening trees, perch trees, and replacement trees and shall apply the provisions of subsections (b) and (c) above and of § 919.2 (939.2, 959.2), and shall immediately notify the ~~CDFW Department of Fish and Game~~ and the ~~Department of Forestry and Fire Protection~~CDF. An amendment that shall be considered a minor amendment to the timber harvesting plan shall be filed reflecting such additional protection as is agreed between the operator and the Director after consultation with the ~~CDFW Department of Fish and Game~~.

Note: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4513, 4551.5, 4582.75, 4583 and 4604, Public Resources Code; ~~44 CCR 670.5~~; and 50 CFR 17.11.

Amend:

§ 919.3. Specific Requirements for Protection of Nest Sites.

1 The following requirements shall apply to nest sites containing active nests and not to
2 nest sites containing only abandoned nests.

3 (a) Buffer zones shall be established around all nest trees containing active nests. The
4 buffer zones shall be designed to best protect the nest site and nesting birds from the
5 effects of timber operations. In consultation with the CDFW~~Department of Fish and~~
6 ~~Game~~, and as approved by the Director, an RPF or supervised designee shall flag the
7 location of the boundaries of the buffer zone, and the configuration of the buffer zone.
8 Consultation with the CDFW~~Department of Fish and Game~~ shall be required pursuant to
9 14 CCR § 898. Consideration shall be given to the specific habitat requirements of the
10 bird species involved when configuration and boundaries of the buffer zone are
11 established.

12 (b) The size of the buffer zone for each species shall be as follows:

13 (1) For the Bald eagle and Peregrine falcon, the buffer zone shall be a minimum of ten
14 acres in size. The Director may increase the buffer zone beyond 40 acres in size so that
15 timber operations will not result in a "take" of either species. The Director shall develop
16 the buffer zone in consultation with the CDFW~~Department of Fish and Game~~ and the
17 RPF.

18 (2) For the Golden eagle, the buffer zone shall be a minimum of eight acres in size.

19 (3) For the Great blue heron and Great egret, the buffer zone shall consist of the area
20 within a 300-foot radius of a tree or trees containing a
21 group of five or more active nests in close proximity as determined by the
22 CDFW~~Department of Fish and Game~~.

23 (4) For the Northern goshawk, the buffer zone shall be a minimum of five acres in size.
24 When explained and justified in writing, the Director may increase the size of the buffer
25 zone to a maximum of 20 acres when necessary to protect nesting birds.

(5) For the Osprey, the buffer zone may be up to five acres in size. When explained and justified in writing, the Director may increase the size of the buffer zone to a maximum of 18 acres when necessary to protect nesting birds.

(c) The following year-round restrictions shall apply within the buffer zone.

(1) For the Bald eagle, no clearcutting is allowed within the buffer zone. Selection, commercial thinning, sanitation-salvage, and the shelterwood regeneration method, except for the removal step, are permitted if all trees are marked prior to preharvest inspection. All nest trees containing active nests, and all designated perch trees, screening trees, and replacement trees, shall be left standing and unharmed.

(2) For the Golden eagle, no clearcutting is allowed within the buffer zone. All nest trees containing active nests, and all designated perch trees, screening trees, and replacement trees, shall be left standing and unharmed.

(3) For the Great blue heron and Great egret, all nest trees containing active nests shall be left standing and unharmed.

(4) For the Northern goshawk, designated nest trees, screening trees, perch trees, and replacement trees shall be left standing and unharmed. Only the commercial thinning, sanitation-salvage, and selection regeneration methods are permitted in the buffer zone.

(5) For the Osprey, all designated nest trees, perch trees, screening trees, and replacement trees shall be left standing and unharmed. If the RPF believes that retention is not feasible, he may propose construction of an artificial nest structure as an alternative.

(6) For the Peregrine falcon, where timber provides part of the immediate nesting habitat, special cutting prescriptions may be required by the Director on an area up to ten acres in size immediately surrounding the nest. The cutting prescriptions shall protect the nesting habitat.

(d) Critical periods are established for each species and requirements shall apply during these critical periods as follows:

(1) For the Bald eagle, the critical period is January 15 until either August 15 or four weeks after fledgling, as determined by the Director. During this critical period, no timber operations are permitted within the buffer zone. Exceptions may be approved by the Director, after consultation with the CDFW~~Department of Fish and Game~~ to allow hauling on existing roads that normally receive use within the buffer zone during the critical period.

(2) For the Golden eagle, the critical period is January 15 until April 15 for active nests, and is extended from April 15 until either September 1 or until the birds have fledged from occupied nests. During this critical period, hauling on existing roads that normally receive use during the critical period is permitted. Other timber operations are not permitted within the buffer zones.

(3) For the Great blue heron and Great egret, the critical period is February 15 until July 1 for coastal counties south of and including Marin County. For all other areas, the period is from March 15-July 15. During this critical period, timber operations within the buffer zone shall be staged with a gradual approach to the nest.

(4) For the Northern goshawk, the critical period is from March 15 until August 15. During this critical period, no timber operations are permitted; however, new road construction is permitted if the Director determines that there is no feasible alternative. Exceptions may be approved by the Director after consultation with the CDFW~~Department of Fish and Game~~ to allow hauling on existing roads that normally receive use within the buffer zone during the critical period.

(5) For the Osprey, the critical period is March 1 to April 15 for active nests in coastal counties including Mendocino County and those south of it. This period is extended

1 from April 15 until August 1 for occupied nests. For all other areas, the critical period is
2 March 15 until May 1 for active nests, and is extended from May 1 to August 15 for
3 occupied nests. During the critical period, at nest sites where Osprey have shown
4 historical tolerance to disturbance, timber operations are permitted using a gradual
5 approach to the nest, except that no cutting is permitted. Where Osprey are determined
6 by the Director to be intolerant to timber operations, no timber operations are permitted
7 within the buffer zone unless the Director determines that there are no feasible
8 alternatives.

9 (6) For the Peregrine falcon, the critical period is February 1 until April 1 for active nests,
10 and is extended until July 15 for occupied nests. During the critical period, no timber
11 operations are permitted within the buffer zone. However, when the Director, after
12 consultation with the CDFW~~Department of Fish and Game~~ determines that Peregrines
13 have shown a tolerance to hauling activity in the past, hauling on existing roads that
14 normally receive use during the critical period within the buffer zone is permitted.

15 (e) The following requirements shall apply to helicopter logging during the critical period.

16 (1) For the Bald eagle, helicopter yarding within one-quarter mile radius of the nest tree
17 is prohibited. Helicopter yarding between one-quarter and one-half mile of the nest tree
18 is permitted when timber operations are conducted so that helicopter yarding gradually
19 approaches the one-quarter mile radius limit.

20 (2) For the Golden eagle and Northern goshawk, helicopter yarding within one-quarter
21 mile radius of the nest is prohibited.

22 (3) For the Osprey, helicopter yarding within one-quarter mile radius of the nest is
23 prohibited between April 15 and June 15.

24 (4) For the Peregrine falcon, helicopter yarding is prohibited within one-half mile of the
25 nest.

1
2 Note: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4513
3 and 4551.5, Public Resources Code.
4

5 **Amend:**

6 **§ 919.5. Alternatives.**

7 The RPF may propose alternatives to the requirements of this chapter, and the Director
8 may approve such alternatives provided all of the following conditions are met:

9 (a) The RPF develops the alternative in consultation with the CDFW~~Department of Fish~~
10 ~~and Game~~.

11 (b) The Director consults with the CDFW~~Department of Fish and Game~~ and makes
12 findings that the alternative conforms to (c), below, prior to approving the alternative.

13 (c) The alternative will provide protection for nesting birds and their nesting sites equal
14 to or greater than the protection that would be afforded by the application of the normal
15 rules set forth in this chapter.
16

17 Note: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4513
18 and 4551.5, Public Resources Code.
19

20 **Amend:**

21 **§ 919.9. Northern Spotted Owl.**

22 *****

23 (b)(1)(D) All known owl observations, identified by location and visual or nonvisual
24 confirmation within 1.3 miles of the boundary. This information shall be derived from the
25

landowner's and RPF's personal knowledge, and from the ~~CDFW Department of Fish and Game~~'s spotted owl data base.

(c)(4) The surveys reveal no activity center or repeated observations indicating the presence of mates and/or young within 1.3 miles of the boundary based on a review of the landowner's and RPF's personal knowledge and the Department of Fish and ~~Game~~Wildlife 's spotted owl data base.

(d) If the plan submitter proposes to proceed under an "incidental taking" permit or any other permit covering the northern spotted owl issued by the ~~U.S. Fish and Wildlife Service~~USFWS or the ~~CDFW Department of Fish and Game~~, the submitter shall supply a copy of the permit upon the Department's request.

Note: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4513, 4551.5, 4582.75, 4583, Public Resources Code; and 50 CFR 17.11.

Amend:

§ 919.11. Marbled Murrelet Protective Measures.

Where there is evidence of an "active murrelet site" in or adjacent to the THP area, or where there is evidence of a potential impact to a murrelet, the Director shall consult with CDFGW as to whether the proposed THP will result in a "take" or "jeopardy" (pursuant to the California Endangered Species Act) of the murrelet before the Director may approve or disapprove a THP. Biological Assessments submitted with the THP that are prepared according to the ~~CDFW Department of Fish and Game~~ Guidelines for Consultation (~~Fish and Game Code Section~~F&GC § 2090) shall be provided to the

1 CDFGW during consultation. If CDFGW determines jeopardy or a take will occur as a
2 result of operations proposed in the THP, the Director shall disapprove the THP unless
3 the THP is accompanied by authorization by a wildlife agency acting within its authority
4 under state or federal endangered species acts.

5
6 Note: Authority cited: Section 4551, Public Resources Code. Reference: Sections 2053,
7 2080.1, 2090-2097, 2830 and 2835, Fish and Game Code; Sections 4513 and 4551.5,
8 Public Resources Code; and the federal Endangered Species Act of 1973, 16 U.S.C. et
9 seq.

10
11 **Amend:**

12 **§ 919.12. Sensitive Species Classification.**

13 *****

14 (b) The Board will consult with the ~~USFWS~~~~U.S. Fish and Wildlife Service~~, the California
15 Fish and Game Commission, the ~~CDFW~~~~California Department of Fish and Game~~, and
16 others as appropriate. After consultation, the Board shall classify a species as sensitive
17 after a public hearing if it finds:

18 (1) The California population requires timberland as habitat for foraging, breeding, or
19 shelter, and

20 (2) The California population is in decline or there is a threat from timber operations,
21 and

22 (3) Continued timber operations under the current rules of the Board will result in a loss
23 of the California population viability.

24 (c) The Board shall consult with the ~~U.S. Fish and Wildlife Service~~USFWS, the
25 ~~CDFW~~~~Department of Fish and Game~~, and others as appropriate. After consultation and

1 a public hearing, the Board will declassify a species as sensitive if it no longer meets the
2 criteria for classification.

3 *****

4 Note: Authority cited: Sections 4551, 4552, 4553 and 4582, Public Resources Code.
5 Reference: Sections 4512, 4513, 4551, 4551.5, 4552 and 4582, Public Resources
6 Code.

7
8 **Amend:**

9 **§ 921.1. Preliminary Field Work and Timber Harvesting Plans.**

10 *****

11 (a)(4) The following wildlife consideration shall be followed:

12 (A) Live trees, as designated on the ground by the ~~Departments of Fish and Game or~~
13 ~~Forestry~~ the CDFW, the CDF, or the RPF or supervised designee with visible evidence
14 of current use as nesting sites by hawks, owls, or waterfowl shall not be marked for
15 cutting.

16 (5) In applying the rules, the RPF shall, when selecting feasible alternatives required by
17 14 GACCCR § 898, follow the criteria and management objectives used by the Coastal
18 Commission in selecting that area for special treatment. (See Title 14, California
19 ~~Administrative Code~~ of Regulations, ~~Section~~ § 912.)

20 *****

21 Note: Authority cited: Sections 4551 and 4553, Public Resources Code. Reference:
22 Sections 4551.5, 4582 and 30417, Public Resources Code.

23
24 **Amend:**

25 **§ 921.6. Hazard Reduction.**

(b) Burning. Broadcast burning shall be prohibited on lands harvested under the commercial thinning and selection silvicultural methods in Coastal Zone Special Treatment Areas. Broadcast burning may be allowed for site preparation purposes in accordance with 14 CACCCR § 917.4 on lands harvested under the clearcut, rehabilitation or sanitation-salvage methods when a prescribed burning plan is submitted as part of the ~~THPTimber Harvesting Plan~~ which explains and justifies broadcast burning in the Coastal Commission Special Treatment Areas. A determined effort shall be made to protect the surface organic horizon of the soil during the course of any permitted broadcast burning operations.

(c) Snags. All snags within the ~~WLPZWatercourse and Lake Protection Zone~~ and within 100 feet (30.48 m) of meadow edges shall be left standing with the following exceptions:

(1) When felling is required for fire or safety reasons, as specified by the rules or CAL-OSHA regulations, or when necessary in sanitation-salvage operations.

(2) When a snag of commercial value is marked for felling by an RPF or supervised designee after an initial preharvest inspection and consultation with the ~~CDFWDepartment of Fish and Game~~ and the timber owner.

Note: Authority cited: Sections 4551 and 4562, Public Resources Code. Reference: Sections 451.5, 4562 and 30417, Public Resources Code.

AMEND:

§ 926.3. Plan Submittal and Notice of Intent.

(d) The plan submitter shall have the Notice of Intent published in a newspaper of general circulation in the area, concurrently with the submission of the plan to the Director. Proof of publication of notice shall be provided to the Director prior to his/her determination made pursuant to 14 CCR § 1037.64.

Note: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code. Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

REPEAL:

§ 926.21. Exemptions from Timber Harvesting Plan Requirements [Santa Cruz County].

~~The following requirements shall apply to timber operations conducted on ownerships of timberland of less than three acres pursuant to 14 CCR 1038(c).~~

~~a. The notice of exemption submitted to the Director pursuant to 14 CCR 1038.1 shall be accompanied by a planimetric or topographic map that clearly shows the location of and identifies the following features within the plan area:~~

~~1. log landing proposed to be used,~~

~~2. tractor roads on slopes over 50 percent,~~

~~3. logging roads,~~

~~4. watercourses, lakes, marshes, springs, and seeps,~~

~~5. structures, including mobile homes and trailers, currently maintained for human habitation within 200 feet, as measured along the surface of the ground, from the boundary of the plan area.~~

~~b. In addition, the following information shall be provided:~~

~~1. The approximate number of trees to be cut,~~

~~2. Assessor's Parcel Number covering the plan area,~~

~~3. Zoning designation covering the plan area,~~

~~4. Expected dates of commencement and completion.~~

~~c. Within 5 working days of receipt, CDF shall determine whether the exemption is complete and accurate. If it is found to be complete and accurate, CDF shall send a copy with a Notice of Acceptance to both the county and the applicant. Operations pursuant to the Exemption may not commence for ten working days from the date of the Notice of Acceptance in order to provide the County with an opportunity to (1) review the proposed operation, and (2) notify the submitter of applicable county regulations prior to the onset of operations. The Notice of Acceptance shall include the following statements:~~

~~1. An explanation that both the state and county have regulatory authority over timber harvest operations on ownerships of timberland of less than three acres.~~

~~2. An explanation that the Director's acceptance only relates to compliance with the rules of the State Board of Forestry.~~

~~3. Recommendation that the submitter should consult with the Santa Cruz Planning Department before proceeding.~~

~~4. Notification that proceeding without consulting with the County Planning Department could result in violation of county ordinances.~~

~~5. Notification that operations pursuant to the Exemption may not commence for ten working days to facilitate review of this operation by the county. The earliest date on which operations may commence shall be clearly stated in the Notice of Acceptance.~~

d. ~~If the Exemption is determined to be incomplete, a CDF shall return the exemption to the applicant with a cover letter explaining the deficiencies.~~

Note: Authority cited: Sections 4516.5 and 4551, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

Amend:

§ 927.12. Hazard Reduction.

(a) Burning. Broadcast burning shall be prohibited on lands harvested under the commercial thinning treatment and selection silvicultural methods in the County. Broadcast burning may be allowed for site preparation purposes in accordance with 14 GACCCR § 917.4 on lands harvested under the sanitation-salvage treatment when a prescribed burning plan is submitted as part of the ~~Timber Harvesting Plan~~ THP which explains and justifies broadcast burning in the County.

An effort shall be made to protect the surface organic horizon of the soil during the course of any permitted broadcast burning operations.

(b) Snags. All snags within the ~~Watercourse and Lake Protection Zone~~ WLPZ and within 100 feet of meadow edges shall be left standing with the following exceptions:

(1) When felling is required for fire or safety reasons (CAL-OSHA regulations, 8 GACCCR § 6259) or when necessary in sanitation-salvage operations.

(2) When a snag of commercial value is marked for felling by the RPF after an initial preharvest inspection and consultation with the CDFW ~~Department of Fish and Game~~ and the timber owner.

Note: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

Amend:

§ 953.9. Successive Cutting.

Relogging of an area in less than the period of five years required for meeting stocking standards can be done only under either of the following conditions:

(a) sanitation-salvage cutting, or

(b) when stocking requirements have been met and a report of satisfactory stocking (ref. 14 CAC 1076 CCR §1075) has been issued by the Director.

Note: Authority cited: Sections 4551 and 4561, Public Resources Code. Reference: Sections 4561 and 4587, Public Resources Code.

Amend:

§ 959.15. Protection of Wildlife Habitat.

(a) Where present at time of timber harvest 400 square feet basal area of oak per 40 acres should be retained and protected, giving preference to deciduous oaks. Oaks should be retained on areas designated by the CDFW Department of Fish and Game as deer migration corridors, holding areas, or key ranges when consistent with good forestry practices.

Note: Authority cited: Sections 4551 and 4561, Public Resources Code. Reference: Sections 4551, 4561 and 4561.1, Public Resources Code.

Amend:

§ 961.1. Preliminary Field Work and Timber Harvesting Plans.

(a) The following preliminary field work shall be required in the Coastal Commission Special Treatment Areas and shall be completed prior to submission of the plan to the Director:

(1) When a boundary of a Coastal Commission Special Treatment Area is within or contiguous to a plan area, the boundary shall be clearly identified on the ground, by the RPF preparing the plan or supervised designee, with paint, flagging or other suitable means.

(2) All timber proposed for harvest shall be clearly marked with paint at points approximately 4 1/2 feet (1.37 m) above the ground and at ground level.

(3) The following wildlife considerations shall be followed:

(A) Live trees, as designated on the ground by the ~~Departments of Fish and Game or Forestry and Fire Protection~~ CDFW, the CDF, and or the RPF or supervised designee, with visible evidence of current use as nesting sites by hawks, owls, or waterfowl shall not be marked for cutting.

(B) Live trees as designated on the ground by the ~~Departments of Fish and Game or Forestry and Fire Protection~~ CDFW, the CDF, or the RPF or supervised designee, with visible evidence of nesting by eagles, osprey, or any endangered species, as identified by the CDFW ~~Department of Fish and Game~~, shall not be marked for cutting.

(C) Live trees constituting a rookery for herons and/or egrets shall not be marked for cutting unless authorization in writing from the CDFW ~~Department of Fish and Game~~ is granted to the timber owner.

(4) All logging roads proposed to be constructed or reconstructed, main skid trails and those minor skid trails that would require or result in substantial soil displacement, and

1 landing locations shall be clearly marked on the ground with flagging or other
2 appropriate marking, keyed to the various projects.

3 (5) The boundary of the ~~watercourse and lake protection zones~~WLPZs shall be flagged
4 or otherwise marked on the ground and shall include all slides and areas with visible
5 evidence of slope instability which extend to the ~~watercourse and lake protection~~
6 ~~zone~~WLPZ.

7 (b) The following requirements shall be adhered to in submitting plans in Coastal
8 Commission Special Treatment Areas:

9 (1) Plan maps shall be at a scale of at least 4 inches to the mile (6.3 cm per km).

10 (2) The plan map must show the location of and identify the following: All log landings
11 proposed to be used, and all main skid trails, all logging roads, all watercourses, lakes,
12 marshes and boundaries of Coastal Commission Special Treatment Areas within or
13 contiguous to the plan area.

14 (3) An initial inspection of the area in which timber operations are to be conducted shall
15 be made within 10 days from the date of filing of the plan, or such longer period as may
16 be mutually agreed upon by the Director and the person submitting the plan. The RPF
17 who prepared the plan shall attend the initial inspection. The timber owner and timber
18 operator or their agents should attend the initial inspections.

19 (4) In applying the rules the RPF shall, when selecting feasible alternatives required by
20 14 GAGCCR § 898, follow the criteria and management objectives used by the Coastal
21 Commission in selecting that area for special treatment. (See 14 GAGCCR § 912.)

22
23 Note: Authority cited: Section 4551, Public Resources Code. Reference: Sections
24 4551.5, 4582 and 30417, Public Resources Code.
25

Amend:

§ 1020. Board Authority Delegated.

The State Board of Forestry and Fire Protection delegates its authority under Article 6 (commencing with Section 4571) of Chapter 8, Part 2, Division 4 of the Public Resources Code, to the Director.

Note: Authority cited: Section 4551, Public Resources Code. Reference: Section 4577, Public Resources Code.

Amend:

§ 1024.5. Insurance Maintenance.

Licensees shall maintain in force an insurance policy, if required, as defined in subsection (c) of PRC §section 4572. Failure or refusal to do so shall render the application incomplete, and a license shall be invalid. If an Insurance Certificate showing insurance coverage is received by the Department demonstrating no lapse in insurance coverage, the license shall continue without interruption. If no such Insurance Certificate is received, the license shall remain invalid and a new license shall be required.

Note: Authority cited: Sections 4553 and 4572, Public Resources Code. Reference: Section 4572, Public Resources Code.

Amend:

§ 1036.1. Murrelet Protection before Notice of Completion.

1 For any THP which has been found to be in conformance with THP filing and review
2 procedures and approved by the Director, but as to which no Notice of Completion
3 (PRC ~~§~~Section 4586) has been filed, when there is evidence that the THP area contains
4 an active murrelet site or possesses a potential impact to a murrelet, the THP submitter
5 shall immediately request a conference with CDFGW or ~~U.S. Fish and Wildlife~~
6 ~~Service~~USFWS (in the event of Federal listing) to determine appropriate measures for
7 protection of the species. Any additional mitigations for species protection which are
8 developed through consultation with CDFGW or the ~~U.S.F.W.S.~~USFWS after initial
9 submittal of the THP shall be submitted to the Director in the form of an amendment to
10 the THP pursuant to 14 CCR § 1036.

11
12 Note: Authority cited: Section 4591.1, Public Resources Code. Reference: Sections
13 4583.2 and 4591.1, Public Resources Code.

14
15 **Amend:**

16 **§ 1037.3. Agency and Public Review.**

17 (a) Upon receipt of the filed plan in accordance with 14 CCR § 1037, the Director shall
18 place it, or a true copy thereof, in a file available for public inspection, and shall transmit
19 a copy to the ~~CDFW~~Department of Fish and Game, the appropriate ~~California Regional~~
20 ~~Water Quality Control Board~~RWQCB, the ~~Department of Conservation, Division of~~
21 ~~Mines and Geology (California Geological Survey)~~CGS, the Department of Parks and
22 Recreation, the county planning agency and, if the areas are within their jurisdiction, to
23 the California Tahoe Regional Planning Agency and the California Coastal Commission.

24
25 *****

Note: Authority cited: Sections 4551 and 4552, Public Resources Code. Reference: Sections 4582.6, 4582.7 and 4582.75, Public Resources Code, and Joy Road Area Forest and Watershed Association v. California Department of Forestry & Fire Protection, Sonoma County Superior Court No. SCV 229850.

AMEND:

§ 1037.5. Review Teams to Be Established.

(a) Review Team Composition. Each review team, when possible, shall consist of a representative from each of the following agencies: the appropriate ~~California Regional Water Quality Control Board~~ RWQCB, CDFW ~~Department of Fish and Game~~, ~~Department of Conservation~~, ~~Division of Mines and Geology~~ CGS, a representative of county government when the county government so requests, California Coastal Commission (for plans in the coastal zone), California Tahoe Regional Planning Agency (for plans in the Tahoe Basin) and the ~~Department of Forestry and Fire Protection~~ CDF.

The Director shall request a representative from the Department of Parks and Recreation in the case of plans that may affect values in publicly owned parks. The Director may request other federal, state, or county agencies, or Native Americans as defined in 14 CCR § 895.1, when appropriate, to assist as advisors in the review process. The ~~Department of Forestry and Fire Protection~~ CDF's representative shall be the review team chairperson and shall be a ~~Registered Professional Forester~~ RPF.

Note: Authority cited: Sections 4551 and 21080.5, Public Resources Code. Reference: Sections 4512, 4513, 4551.5, 4582.6, 21000(g), 21002 and 21080.5, Public Resources

Code; and Natural Resources Defense Council, Inc. v. Arcata Nat. Corp. (1976) 59 Cal.App.3d 959; 131 Cal.Rptr. 172.

AMEND:

§ 1051. Modified Timber Harvest Plan.

(a)(10) No listed species will be directly or indirectly adversely impacted by proposed timber operations. For timber operations which potentially could adversely affect a State-listed species or the habitat of the species, the consultation process with CDFGW pursuant to F&GC shall be completed prior to plan approval.

Note: Authority cited: Sections 4551, 4551.5, 4593, 21082 and 21086, Public Resources Code. Reference: Sections 4512, 4513, 4551, 4551.5, 4552, 4593, 21082, 21084 and 21086, Public Resources Code; and ~~15300, 15300.3, 15300.4 and 15304, Title 14, California Code of Regulations (CCR).~~

AMEND:

§ 1051.1. Contents of Modified THP.

A plan submitted under 14 CCR § 1051 above shall contain all the applicable provisions of 14 CCR § 1034 and the RPF shall:

(a) Identify and map those areas currently understocked and not to be harvested that are at least 3 acres in size.

(b) Use a topographic map base with a minimum scale of 1:12,000.

(c) Certify in the THP that the conditions or facts stated in items 1-16 above exist on the THP area at the time of submission, and that in the preparation, mitigation, and analysis of the THP ~~and~~, no identified potential significant effects remain undisclosed.

Note: Authority cited: Sections 4551, 4551.5, 4593, 21082 and 21086, Public Resources Code. Reference: Sections 4512, 4513, 4551, 4551.5, 4552, 4593, 21082, 21084 and 21086, Public Resources Code.

AMEND:

§ 1051.4. Modified THP for Fuel Hazard Reduction Conditions and Mitigations.

(a)(2) Prescribed fuel hazard reduction to promote project area resiliency to wildfire is recognized as an intermediate treatment rather than a regeneration method. Therefore, clearcutting as defined in 14 CCR §§ 913.1(ab), 933.1(ab), and 953.1(ab) ~~and §§ 913.2(a), 933.2(a), and 953.2(a)~~ shall not be used, except for legally permitted utility corridors or road construction. Silvicultural methods that may be used are commercial thinning pursuant to 14 CCR §§ 913.3(a), 933.3(a), and 953.3(a), rehabilitation as constrained by 14 CCR §§ 1051.3-1051.7 and pursuant to 14 CCR §§ 913.4(b), 933.4(b), and 953.4(b), and fuelbreak/defensible space pursuant to 14 CCR §§ 913.4(c), 933.4(c), and 953.4(c).

(a)(10) No listed species will be directly or indirectly adversely impacted by proposed timber operations. Except as modified herein, all other habitat protection and retention

requirements identified in Articles 6 and 9 of the Forest Practice Rules shall apply.

Where the Director has determined that timber operations as proposed are likely to adversely affect a state listed species or its habitat, the consultation process with CDFGW pursuant to ~~California Fish & Game Code~~ F&GC § 2081 shall be completed before the MTHP-FHR may be approved.

(11) As part of the pre-harvest project design, the RPF shall evaluate and incorporate habitat requirements for fish, wildlife, and plant species in accordance with the "Joint Policy on Hardwoods" between the California Board of Forestry and Fire Protection and the California Fish and Game Commission" (rev. April 1999), herein incorporated by reference, and 14 CCR §§ 916.9, 936.9, and 956.9 and §§ 919, 939, and 959. Such evaluations shall include use of the California Natural Diversity Database maintained by CDFGW (available at <http://www.dfg.ca.gov/biogeodata/cnddb/> ~~https://www.wildlife.ca.gov/Data/CNDDDB~~) and local review agency knowledge of the planning watershed. Consultation with CDFGW personnel is recommended. In general, fuels management strategies should recognize that habitat heterogeneity and fire resiliency are not mutually exclusive. Habitats and habitat elements may include key winter range or migration routes, late successional stands, hardwood or aspen groves, riparian or wetland areas, snags, large down woody material, or den trees.

Note: Authority cited: Sections 4551, 4551.5 and 4593, Public Resources Code.

Reference: Sections 4512, 4513, 4551, 4551.5, 4552 and 4593, Public Resources Code.

AMEND:

1 **§ 1051.5. Contents of Modified THP for Fuel Hazard Reduction.**

2 *****

3 (e)(3) A description of the timeline, methods and standards for treatment of pre-existing
4 surface and ladder fuels as well as logging slash created by timber operations. The
5 description shall include discussion of the performance standard to be achieved and the
6 methods by which compliance with that performance standard may be verified. The
7 description shall include, but not be limited to, the United States Forest Service "Natural
8 Fuels Photo Series" (rev. April 2011, available at
9 http://www.fs.fed.us/pnw/fera/publications/photo_series_pubs.shtml), incorporated by
10 reference herein, and, in particular, photo series "General Technical Report (GTR)
11 PNW-51 (rev.1976), PNW-52 (rev. 1976), PNW-56 (rev. 1981), and PNW-95" (rev.
12 1979) incorporated by reference herein, for visual demonstration of pre and post-
13 treatment stand conditions in this description (copies of all four General Technical
14 Reports are available upon request from the State Board of Forestry and Fire Protection
15 located at the State of California Resources Building, 1416 9th Street, Room 1506-14,
16 P.O. Box 944246, Sacramento, California 94244-2460).

17
18 *****

19 Note: Authority cited: Sections 4551, 4551.5 and 4593, Public Resources Code.
20 Reference: Sections 4512, 4513, 4551, 4551.5, 4552 and 4593, Public Resources
21 Code.

22
23 **AMEND:**

24 **§ 1052.3. Emergency Notice For Insect Damaged Timberlands.**

25 *****

1 ~~(b) A 60-day extension of an existing emergency notice may be submitted by an RPF~~
2 ~~where expanded or subsequent insect attack is occurring and it is explained and~~
3 ~~justified why the timber operation could not be completed during the first 60-day period.~~

5 Note: Authority cited: Sections 4551, 4552 and 4554, Public Resources Code.

6 Reference: Section 4592, Public Resources Code.

9 **AMEND:**

10 **§ 1052.4. Emergency Notice for Fuel Hazard Reduction.**

11 *****

12 (e) As part of the preharvest project design, the RPF shall evaluate and incorporate
13 habitat requirements for fish, wildlife and plant species in accordance with sections 14
14 CCR §§ 898.2, 916.9 [936.9, 956.9] and 919. Such evaluations shall include use of the
15 California Natural Diversity Database (as referenced by the CDFW ~~Department of Fish~~
16 ~~and Game~~, <https://www.wildlife.ca.gov/Data/CNDDB>
17 <http://www.dfg.ca.gov/whdab/html/cnddb.html>) and local knowledge of the planning
18 watershed. Consultation with CDFW ~~Department of Fish and Game~~ personnel is
19 recommended. Examples of habitat requirements to be incorporated into the project
20 include retention of large woody debris and snags congruent with emergency condition
21 goals, and vegetative screening for wildlife cover and visual aesthetics.

22 (f) Operations conducted concurrently in the same geographic area (ref. 14 CCR §
23 1052.4(c)) pursuant to 14 CCR § 1038(b) shall not remove diseased trees in excess of
24 the diameter limit required under 14 CCR § 1052.4(d)(2).

Note: Authority cited: Sections 4551, 4551.5, 4552, 4553 and 4592, Public Resources Code. Reference: Sections 4513, 4554, 4555, 4561, 4562, 4584, 4592, 21001(f) and 21080(b)(4), Public Resources Code.

AMEND:

§ 1052.5. Emergency Notice for Outbreaks of Sudden Oak Death Disease.

(b)(1) The RPF shall provide written proof of notification regarding the proposed submission of an Emergency Notice for SOD eradication to the NMFS, CDFGW, U.S. Fish and Wildlife Service (USFWS), and the applicable ~~regional water quality control board~~ RWQCB. Written notification shall be received by NMFS, CDFGW, USFWS, and the applicable ~~regional water quality control board~~ RWQCB at least 10 working days prior to submission of the Emergency Notice.

(b)(4)(A) The RPF preparing the Emergency Notice shall evaluate and incorporate habitat requirements for fish, wildlife, and plant species using the California Natural Diversity Database maintained by the CDFGW, local knowledge of the planning watershed, and consultation with the Department regarding other plans in the Emergency Notice area.

Note: Authority cited: Sections 4551 and 4592, Public Resources Code. Reference: Sections 4513, 4551.5, 4552, 4553, 4554, 4561, 4562, 4584, 4592, 4750, 4750.3, 4750.4, 21001(f) and 21080(b)(4), Public Resources Code.

1 **AMEND:**

2 **§ 1054.3. Filing of Request for Hearing.**

3 Such request shall be deemed to be filed on the date, whichever is earlier, upon which it
4 is postmarked or the date upon which it is otherwise received at the office of the State
5 Board of Forestry and Fire Protection at the State of California Resources Building,
6 1416 Ninth Street, Room 1506-14, P.O. Box 944246, Sacramento, CA ~~95814~~94244-
7 2460.

10 **AMEND:**

11 **§ 1055. County Appeals Procedures.**

12 The Board of Supervisors of a county for which rules and regulations have been
13 adopted pursuant to ~~Public Resources Code~~PRC § 4516.5 may appeal the Director's
14 approval of a ~~Timber Harvesting Plan~~THP by doing the following:

15 (a) No later than ten days from the date of approval, the county shall file with the
16 Executive Officer of the State Board of Forestry and Fire Protection at the State of
17 California Resources Building, 1416 9th Street, Room 1506-14, P.O. Box 944246,
18 Sacramento, CA 94244-2460 and mail to the plan submitter a statement containing:

19
20 *****

21 Note: Authority cited: Section 4516.6, Public Resources Code. Reference: Sections
22 4516.5 and 4516.6, Public Resources Code.

24 **AMEND:**

25 **§ 1055.2. County Appeal Hearing Procedures -Scheduling.**

1 The Board shall schedule and hold a public hearing on an appeal by a county no later
2 than 30 days from the filing of the written statement of appeal, or at such later time as
3 may be mutually agreed upon by the Board, the county, and the plan submitter. The
4 hearing may be scheduled as part of a regular meeting of the Board or may be
5 conducted by a committee of the Board as provided in PRC § 4516.6(d). Sufficient time
6 must be provided for the notice of hearing in accordance with 14 ~~CACCCR~~ §1055.83.
7

8 Note: Authority cited: Section 4516.6, Public Resources Code. Reference: Sections
9 4516.5 and 4516.6, Public Resources Code; ~~and Section 1055.8, Title 14, California~~
10 ~~Code of Regulations.~~
11

12 **AMEND:**

13 **§ 1056. Head of Agency Appeals Procedure.**

14 The State Water Resources Control Board (SWRCB) or the Director of the ~~Department~~
15 ~~of Fish and Game (CDFGW)~~ pursuant to PRC § 4582.9 may appeal the Director's
16 approval of a THP, or Substantial Deviation (14 CCR ~~§§~~1036 and 1039) by doing the
17 following:

18 (a) No later than ten days form the date of THP approval, the SWRCB or CDFGW shall
19 file with the Executive Officer of the State Board of Forestry and Fire Protection and
20 mail to the plan submitter and Director of CDF a statement containing:

- 21 (1) The name of the submitter of the THP;
22 (2) The number of the THP assigned by CDF;
23 (3) The location of the proposed timber operations as described in the Notice of Intent;
24 (4) A concise summary of all facts upon which the appeal is based;
25

- 1 (5) A copy of or reference to all documents within the official THP record which support
2 the appellant's position;
- 3 (6) The name and phone number of the SWRCB designee or CDFGW staff member
4 who will be the primary contact for purposes of the appeal;
- 5 (7) A copy of the authorization by the SWRCB or CDFGW or its authorized designee for
6 the appeal and containing the specific finding that the environment or the public health,
7 safety, or general welfare is threatened by the approval of the THP or Substantial
8 Deviation and what form that threat takes;
- 9 (8) Certification that the SWRCB or ~~Regional Water Quality Control Board~~ RWQCB or
10 CDFGW participated in a multidisciplinary review of the plan including an on site
11 inspection prior to plan approval.
- 12 (9) A statement that the timber operations are not to proceed until the appeal has been
13 acted on by the Board as stated in PRC ~~§section~~ 4582.9.
- 14 (10) A copy of regulations pertaining to head-of-agency appeals.
- 15 (11) A statement to contact the Board for other information about the hearing process.
- 16 (b) The SWRCB or CDFGW shall promptly telephone the Director and plan submitter to
17 inform them of the filing of the appeal.
- 18 (c) If timber operations have commenced, the Department will notify the timber operator
19 to stop all operations.

20
21 Note: Authority cited: Section 4582.9, Public Resources Code. Reference: Section
22 4582.9, Public Resources Code.

23
24 **AMEND:**

25 **§ 1056.1. Hearing on Head of Agency Appeal.**

1 The Chairman of the State Board of Forestry and Fire Protection (Board) shall, without
2 being required to consult other members of the Board, within five (5) working days of
3 receiving the appeal grant a hearing on an appeal by SWRCB or CDFGW pursuant to
4 PRC ~~§section~~ 4582.9 if the Chairman finds that the appeal raises substantial issues with
5 respect to the environment or to public safety. If the Chairman finds that the appeal
6 raises no substantial issues with respect to the environment or to public safety, he or
7 she shall refuse to grant a hearing on an appeal. The Chairman will inform the
8 appealing agency, the plan submitter, and the Department of his or her decision. In
9 making this determination, the chairman shall consider the following:

10 (a) Whether the appeal raises environmental issues which can be addressed by the
11 Board within the limits of the ~~Public Resources Code~~ PRC and the rules of the Board
12 and other applicable laws; and

13 (b) Whether the appeal raises public safety issues which involve threats to the lives,
14 health, or property of state residents.

15
16 Note: Authority cited: Section 4582.9, Public Resources Code. Reference: 4582.9,
17 Public Resources Code.

18
19 **AMEND:**

20 **§ 1056.2. Head of Agency Appeal Hearing Procedures -Scheduling.**

21 The Board shall schedule and hold a public hearing on an appeal by SWRCB or
22 CDFGW no later than 30 days from the filing of the written statement of appeal, or at
23 such later time as may be mutually agreed upon by the Board, the appellant(s), and the
24 plan submitter. The hearing may be scheduled as part of a regular meeting of the Board
25 or may be conducted by a committee of the Board as provided in PRC § 4582.9(d).

1 Sufficient time must be provided for the notice of hearing in accordance with 14 CCR §
2 1056.3.

3
4 Note: Authority cited: Section 4582.9, Public Resources Code. Reference: Section
5 4582.9, Public Resources Code.
6

7 **AMEND:**

8 **§ 1056.3. Head of Agency Appeal Procedures-Notice.**

9 (a) At least 15 days prior to the hearing, the Board shall give public notice as follows:

10 (1) Mailing the notice to the SWRCB designee or CDFGW, and the plan submitter and
11 sending the notice to the Director for distribution as provided in subsection (2) - (5)
12 below;

13 (2) Mailing the notice to any person who has submitted written comment on the plan
14 and to any person who requests notice of the appeal or hearing;

15 (3) Posting of the notice in a conspicuous location available to the public in the
16 appropriate CAL FIRE Review Team Office and Unit Headquarters;

17 (4) Posting of the notice at the place where notices are customarily posted at the county
18 courthouse of the county within which the proposed timber operations are to take place;

19 (5) Any other dissemination of the notice determined to be appropriate by the Director to
20 provide participation in the hearing by the interested public.

21 (b) The notice of hearing shall include the following:

22 (1) The name of the person submitting the plan;

23 (2) Identification of the plan, including the CDF administration number of the plan, a
24 brief description of the location of the timber operations referred to in the plan by
25

reference to any commonly known landmarks in the area, and a brief description of the proposed timber operations:

(3) A statement that the SWRCB or CDFGW has appealed the Director's decision to approve the plan. A statement that the Board has granted a public hearing pursuant to PRC § 4582.9. The notice shall also include a statement inviting the person submitting the plan and the public to make statements at the hearing regarding the basis of the appeal on the plan; and

(4) The time, date, and location of the public hearing.

Note: Authority cited: Section 4582.9, Public Resources Code. Reference: Section 4582.9, Public Resources Code.

AMEND:

§ 1090.5. Contents of NTMP.

(n) Information on the presence and protection of any known key habitat or individuals of any threatened or endangered plant or animal species that are listed in the CDFW Department of Fish and Game inventories prepared pursuant to the Fish and Game Code F&GC or any species of special concern as designated by the Board in these rules.

Note: Authority cited: Stats. 1989, Ch. 1290, Sec. 13, Sections 4551 and 4593.3, Public Resources Code. Reference: Sections 4593 and 4593.3, Public Resources Code.

AMEND:

§ 1090.10. Registered Professional Forester Responsibility.

(d) The RPF preparing the Notice shall, in writing, inform the plan submitter(s) of their responsibility pursuant to section 14 CCR § 1090.109 of the article for compliance with the requirements of the Act and, where applicable, Board rules regarding site preparation, stocking, and maintenance of roads, landings, and erosion control facilities.

Note: Authority cited: Stats. 1989, Ch. 1290, Sec. 13, and Section 4551, Public Resources Code. Reference: Sections 4593, 4593.3, and 4594, Public Resources Code.

AMEND:

§ 1090.17. Agency and Public Review for the NTMP.

(a) Upon receipt of the filed plan in accordance with 14 CCR § 1090.16 the Director shall place it, or a true copy thereof, in a file available for public inspection, and shall transmit a copy to the CDFW ~~Department of Fish and Game~~, the ~~Department of Conservation, Division of Mines and Geology (California Geological Survey)~~ CGS, and to the appropriate ~~California Regional Water Quality Control Board~~ RWQCB, the Department of Parks and Recreation, the county planning agency and, if the areas are within their jurisdiction, to the California Tahoe Regional Planning Agency and the California Coastal Commission and all other agencies having jurisdiction by law over natural resources affected by the plan.

1 *****

2 Note: Authority cited: Stats. 1989, Ch. 1290, Sec. 13, Sections 4551 and 4593.7, Public
3 Resources Code. Reference: Sections 4593, 4593.4 and 4593.7, Public Resources
4 Code, and Joy Road Area Forest and Watershed Association v. California Department
5 of Forestry & Fire Protection, Sonoma County Superior Court No. SCV 229850.

6
7 **AMEND:**

8 **§ 1092.16. PTHP Review Inspection -Filing Return.**

9 Within ten (10) days of the receipt of a PTHP, the Director shall determine if the PTHP
10 is accurate, complete and in proper order, and if so, the PTHP shall be filed. During this
11 same period, the Director shall determine if a preharvest inspection is necessary. If a
12 preharvest inspection is needed, the Department will notify the submitter, the
13 ~~CDFW~~Department of Fish and Game, the ~~Department of Conservation, Division of~~
14 ~~Mines and Geology~~CGS, the appropriate ~~California Regional Water Quality Control~~
15 ~~Board~~RWQCB, and the LTO who will operate under the plan, if known, to determine if
16 they want to attend and schedule a mutually agreeable time and date of the inspection.
17 When the Director finds a PTHP inaccurate, incomplete, or otherwise not in proper
18 order, the PTHP shall be returned to the submitter with written specifications of the
19 deficiencies.

20
21 Note: Authority cited: Sections 4551, 4551.5, 4552 and 21080.5, Public Resources
22 Code; and NRDC v. Arcata National Corp.(1976), 50 Cal. App. 3d 959. Reference:
23 Sections 4581, 4582, 4582.5, 4582.6, 4582.75, 4592, 21081 and 21092, Public
24 Resources Code.

1 **AMEND:**

2 **§ 1092.18. Agency and Public Review for the PTHP.**

3 (a) Upon filing a PTHP in accordance with 14 CCR § 1092.16 the Director shall place it,
4 or a true copy thereof, in a file available for public inspection, and shall transmit a copy
5 to the ~~CDFW~~Department of Fish and Game, the appropriate California Regional Water
6 Quality Control BoardRWQCB, the Department of Conservation, Division of Mines and
7 Geology (California Geological Survey)CGS, the Department of Parks and Recreation,
8 the county planning agency and, if the areas are within their jurisdiction, to the California
9 Tahoe Regional Planning Agency and the California Coastal Commission.

10
11 *****

12 Note: Authority cited: Sections 4551 and 4552, Public Resources Code. Reference:
13 Sections 4582.7 and 4582.75, Public Resources Code, and Joy Road Area Forest and
14 Watershed Association v. California Department of Forestry & Fire Protection, Sonoma
15 County Superior Court No. SCV 229850.

16
17 **AMEND:**

18 **§ 1092.27. Report Minor Deviations.**

19 *****

20 (b) The Director shall have five working days to determine if the proposed deviation is
21 substantial or minor. Upon the date of receipt, the Director shall send copies of the
22 proposed deviation to the ~~CDFW~~Department of Fish and Game, the appropriate
23 California Regional Water Quality Control BoardRWQCB, the Department of
24 Conservation, Division of Mines and GeologyCGS, and any County which has special
25 rules adopted under Section § 4516.5 of the PRC.

Note: Authority cited: Section 4591.1, Public Resources Code. Reference: Sections 4583.2 and 4591.1, Public Resources Code.

AMEND:

§ 1100. Definitions.

The following are definitions of words and terms as used in this article:

(a) "Alternate Use" or "Alternative Use" means a proposed land use that is not a compatible use within a timberland production zone. (Reference: Section 51134(b), Government Code.)

(b) "Bona Fide Intention" or "bona fide intent" means a present, sincere intention of the applicant to conform with and successfully execute the conversion plan, as determined by the Director in accordance with provisions of Section 1105.2. (Reference: Section 4623, Public Resources Code.)

(c) "Coastal Commercial Timberlands" means timberland as defined in PRC § 4526, for those lands which lie within the coastal zone and outside a timberland production zone; ~~or as defined in Gov. C. 51100(f) for those lands which lie within both the coastal zone and a timberland production zone.~~ (Reference: Sections 4526 and 30243, Public Resources Code.); ~~Section 51100(f), Government Code.-)~~

(d) "Coastal Zone" means those lands defined in PRC § 30103. (Reference: Section 30103, Public Resources Code.)

(e) "Compatible Use" means compatible use as defined in Gov. C. 511004(h) and ~~51444~~201(e), as made specific by county or city ordinance adopted pursuant thereto. (Reference: Sections 511004(h) and ~~51444~~201(e), Government Code.-)

1 (f) "Contiguous" means two or more parcels of land that are adjoining or neighboring or
2 are sufficiently near to each other, as determined by the County Board of Supervisors or
3 City Council, that they are manageable as a single forest unit. (Reference: Section
4 511004(b), Government Code.)

5 (g) "Timberland Conversion" means:

6 (1) Within non-Timberland Production Zone (TPZ) timberland, transforming timberland
7 to a nontimber growing use through timber operations where:

8 (A) Future timber harvests will be prevented or infeasible because of land occupancy
9 and activities thereon; or

10 (B) Stocking requirements of the applicable district forest practice rules will not be met
11 within five years after completion of timber operations; or

12 (C) There is a clear intent to divide timberland into ownerships of less than three acres
13 (1.214 ha.).

14 (2) Within Timberland Production Zone (TPZ) lands, the immediate rezoning of TPZ
15 lands, whether timber operations are involved or not, except as exempt from a
16 timberland conversion permit under 14 CACCCR § 1104.1.

17 (h) "Conversion Permit" means the timberland conversion permit, issued by the Director
18 or the Board upon appeal, approving the application for timberland conversion and
19 authorizing a conversion of timberland to use or uses other than the growing of timber.

20 (Reference: Sections 4622, 4624, 4624.5 and 4625, Public Resources Code.)

21 (i) "Government Agency" means the State or any department, agency, or public body
22 thereof, a city or county, public corporation, municipal corporation, or public district.

23 (Reference: Sections 21062 and 21063, Public Resources Code.)

24 (j) "Immediate Rezoning" means a change in zoning for land use by the appropriate
25 county or city having jurisdiction of an area within a Timber Production Zone TPZ to

1 allow an alternative use pursuant to Article 4 (commencing with Section 51130) of
2 Chapter 6.7, Part 1, Division 1, Title 5 of the Government Code. (Reference: Section
3 4526, Public Resources Code; Section ~~51100(f)~~51130, Government Code.); ~~Section~~
4 ~~4021, Title 14, GAG.)~~

5 (k) "Land Parcel" means a piece of land under one ownership where no part is
6 completely separated from any other part by a different fee ownership.

7 (l "Parcel" means parcel as defined in Section 51104(i) of the Government Code.

8 (m) "Timberland" means timberland as defined in PRC § 4526, for land outside a
9 timberland production zone. "Timberland" means timberland as defined in Gov. C.
10 511004(f), for land within a timberland production zone. (Reference: Section 4526,
11 Public Resources Code; Section 511004(f), Government Code.)

12 (n) "Timberland ~~Preserve~~Production Zone" or "TPZ" means timberland
13 ~~preserve~~production zone as defined in Gov. C. 511004(g). (Reference: Section
14 511004(g), Government Code.)

15
16 Note: Authority cited: Section 4621, Public Resources Code. Reference: Sections 700,
17 701, 4526, 4621, 4622, 4623, 4624, 4624.5, 4625, 4626, 21062, 21063, 30103 and
18 30243, Public Resources Code; and Sections 51100, 51111 and 51134(b), Government
19 Code.

20
21 **AMEND:**

22 **§ 1153. Declaration of Categorical Exemptions.**

23 Activities of the Board which are categorically exempt and which do not require
24 environmental documentation include:
25

1 (a) Class 6: Information Collection. Class 6 consists of basic data collection, research,
2 experimental management, and resource evaluation activities which do not result in a
3 serious or major disturbance to an environmental resource, including but not limited to
4 forest surveys and soil erosion studies. These may be strictly for information gathering
5 purposes, or as part of a study leading to an action which a public agency has not yet
6 approved, adopted, or funded. Such actions include, but are not limited to, actions taken
7 under PRC §§ 742-745 and PRC §§ 4800-4807.

8 (b) Class 7: Actions by Regulatory Agencies for Protection of Natural Resources. Class
9 7 consists of actions taken by regulatory agencies as authorized by state law or local
10 ordinance to assure the maintenance, restoration, or enhancement of a natural resource
11 where the regulatory process involves procedures for protection of the environment
12 including but not limited to:

13 (1) Establishment, dissolution or modification of hazardous fire areas in accordance with
14 PRC § 4291 et seq.

15 (2) Establishment, modification, or dissolution of zones of insect, disease, or animal
16 infestation or infection in accordance with PRC § 4716 et seq.

17 (3) Approval of the State Fire Plan in accordance with PRC § 4114.

18 (4) Adoption of rules for the fire protection system in accordance with PRC § 4111.
19

20 Note: Authority cited: Section 21082, Public Resources Code. Reference: Sections
21 21080 and 21083, Public Resources Code; and ~~Sections 15106 and 15107, Title 14,~~
22 ~~California Administrative Code.~~
23
24
25

**State of California
Department of Fish and Wildlife**

M e m o r a n d u m

Date: December 5, 2016

To: Mr. Matt Dias
Executive Officer
California Board of Forestry and Fire Protection

From: Richard Macedo 
Branch Chief
Habitat Conservation Planning Branch

Subject: Forest Practice Rules Non-substantive Changes without Regulatory Effect –
"California Department of Fish and Game" (DFG) to "California Department of
Fish and Wildlife" (CDFW)

On December 7, 2015, the California Department of Fish and Wildlife (CDFW) presented a letter to the Board of Forestry and Fire Protection (Board) titled "Recommended corrections to obsolete text in the California Forest Practice Rules and reforms to § 1104.1, conversion exemptions, to address their effects on forest environments". The letter included an enclosure with CDFW's proposed corrections to obsolete text in the Forest Practice Rules (FPRs). Subsequently, CDFW staff discussed the proposed corrections with Ms. Thembi Borrás, then Board Regulations Coordinator. Ms. Borrás identified a number of proposed corrections that could be considered changes without regulatory effect pursuant to Title 1 of the California Code of Regulations (1 CCR), § 100.

One proposed correction entailed substituting "California Department of Fish and Game" to "California Department of Fish and Wildlife" throughout the FPRs. Please find enclosed a written statement justifying this change as required under 1 CCR § 100(b)(3).

CDFW staff looks forward to working with the Board to implement the requested changes to the FPRs.

If you have questions or need additional information regarding this matter, please contact Mr. William Condon, Environmental Program Manager, at (916) 651-3110, or by email at william.condon@wildlife.ca.gov.

Enclosure

PROPOSED CHANGES WITHOUT REGULATORY EFFECT
JUSTIFICATION STATEMENTS PURSUANT TO 1 CCR § 100(b)(3)

"Abbreviations applicable throughout chapter"

Title 14 of the California Code of Regulations, (14 CCR),
Division 1.5, Chapter 4, Chapter 4.5, and Chapter 10

Amend § 895

*******CDFW California Department of Fish and Wildlife (formerly DFG)*******

Justification: The proposed amendment will make regulations consistent with California statute from section 700 of the Fish and Game Code. Specifically, subsection (b) states that "the Department of Fish and Wildlife shall succeed to, and is vested with, all the duties, powers, purposes, responsibilities, property, and jurisdiction previously vested in the Department of Fish and Game."

Amend all Forest Practice Rules

Amend all references of "DFG," "Department of Fish and Game," or "California Department of Fish and Game" in the Forest Practice Rules to "CDFW" consistent with above abbreviation amendment.

Justification: As noted above, the California Department of Fish and Wildlife statutorily succeeds the Department of Fish and Game (Fish & G. Code, § 700.). References to the Department of Fish and Game throughout the Forest Practice Rules should be amended to reflect this change, with the exception of references to Department of Fish and Game publications produced before January 1, 2013. Such publications were authored by the Department of Fish and Game and authorship should not be retroactively altered.

Neither should references to the Fish and Game Commission nor the Fish and Game Code be altered as their names remain the same.

BOARD OF FORESTRY AND FIRE PROTECTION

P.O. Box 944246
SACRAMENTO, CA 94244-2460
Website: www.bof.fire.ca.gov
(916) 653-8007



January 05, 2017

OAL Reference Attorney
Office of Administrative Law
300 Capitol Mall, Suite 1250
Sacramento, CA 95814

RE: "Rule Alignment, 2017" Section 100 Non-substantial Revisions, pursuant to Title 1 of the California Code of Regulations (1 CCR), §100.

Dear OAL Reference Attorney,

The State Board of Forestry and Fire Protection (Board) hereby amends multiple sections of Title 14 of the California Code of Regulations for which the Board has rulemaking authority. Reasoning by each amendment or repeal in which the Board has rulemaking authority to do so is listed below.

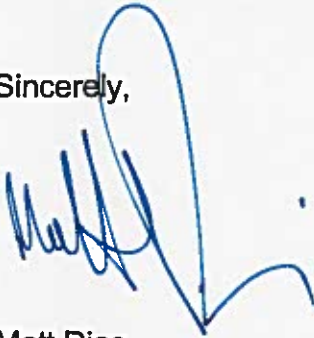
1. A new abbreviation is amended into 14 CCR §895 that states "CDFW California Department of Fish and Wildlife (formerly DFG)." This was done to ensure correct reference to the California Department of Fish and Wildlife, not the previous California Department of Fish and Game. Please see Appendix 1.
2. All references within 14 CCR §§ 895.1, 898.2, 913.4, 915.3, 916.2, 916.8, 916.9, 916.11, 919.2, 919.3, 919.5, 919.9, 919.11, 919.12, 921.1, 921.6, 927.12, 959.15, 961.1, 1036.1, 1037.3, 1037.5, 1051, 1051.4, 1052.4, 1052.5, 1056, 1056.1, 1056.2, 1056.3, 1090.17, 1090.5, 1092.16, 1092.18, 1092.27, 1104.3, 1105.1 to the California Department of Fish and Game, Department of Fish and Game, DFG or CDFG have been revised to read California Department of Fish and Wildlife, Department of Fish and Wildlife, DFW, or CDFW. The amendments made within the proposed ruletext will make language within the California Forest Practice Rules (FPRs) consistent with legislative statute which amended Section 700 of the California Fish & Game Code. Please see the attached Memorandum dated December 5th, 2016 from Mr. Richard Macedo, Branch Chief, Habitat Conservation Planning Branch, California Department of Fish and Wildlife (Appendix 1). The two exceptions to these revisions is that references to the California Department of Fish and Game, Department of Fish and Game, or CDFG publications that occurred prior to January 01, 2013, and references to the Fish and Game Commission or Fish and Game Code were left within the FPRs without revision. Again, please refer to Appendix 1 for the reasoning behind these exceptions.
3. Deletion of "Cutover Land" from 14 CCR §895.1. Assembly Bill 1414 Forestry: timber harvesting of the 2011-2012 legislative session amended numerous sections of the

- Z'Berg-Nejedly Forest Practice Act, all of which were non-substantive, and included the deletion of "Cutover Land" as contained within PRC §4522.5 (Appendix 2).
4. 14 CCR §912.5 was amended to update the Board's address information, and completely and accurately reference the State Board of Forestry and Fire Protection, as opposed to the "Board of Forestry."
 5. 14 CCR §913.4(b)(2) was amended to remove an erroneous "n", that had no use or reason to be within the section. It was simply an error found within the official Barclay's CCR Rule Language.
 6. 14 CCR §914.1(d) was amended to correctly mention 14 CCR §919.2 in regards to Nest Sites. It incorrectly referenced 14 CCR §914.4.
 7. 14 CCR §916.5(e) was amended to remove "watersheds with threatened of impaired values" and correctly state "watersheds with listed anadromous salmonids." This is old rule language that was removed and changed operative 01-01-2010 (Register 2009, No. 49).
 8. 14 CCR §916.9(v)(7)(A) was amended to delete "California Administrative Code" and replace with the correct reference of the "California Code of Regulations."
 9. 14 CCR §921.1 was amended to delete two references to the California Administrative Code and replace with the California Code of Regulations.
 10. 14 CCR §926.21 is hereby repealed, as it applies to an obsolete 14 CCR §1038(c) which was deleted by the Board and replaced with the "Fire Safe Exemption" effective 07/01/2000.
 11. 14 CCR §953.9 was amended to delete the outdated reference to 14 CAC §1076 relative to a report of satisfactory stocking, and replacing it with the correct reference of 14 CCR §1075.
 12. 14 CCR §1020 was amended to accurately reference the full name of the Board, being the "State Board of Forestry and Fire Protection."
 13. 14 CCR §1024.5 is amended to add Public Resources Code to "subsection (c) of section 4572, so there is no ambiguity to which section is referenced.
 14. 14 CCR §§1037.3(a), 1037.5(a), 1090.17(a), 1092.16, 1092.18, and 1092.27 was amended to change the old Department of Conservation, Division of Mines and Geology, to its correct name as the California Geological Survey (Appendix 3).
 15. 14 CCR §1051.1(c) is amended to fix a grammatical error via the addition of "in," so it reads "and that in the preparation."
 16. 14 CCR §1051.4(a)(2) is amended to delete the reference to 14 CCR §913.2(a) [933.2(a), 953.2(a)]. The rule reference relative to clearcutting being defined in 14 CCR §913.2(a) [933.2(a), 953.2(a)] appears in error, since that rule section pertains to the selection silvicultural prescription. This amendment is justified as this reference rule section is does not contain any definition of clearcutting. Therefore, it is not needed within the rule section of 14 CCR §1051.4(a)(2).
 17. 14 CCR §1051.5(e)(3) is amended to update outdated Board address information.
 18. 14 CCR §1052.3(b) is hereby repealed as this section was made invalid by changes operative 1-1-98, Register 97, Number 48, to 14 CCR Section 1052.
 19. 14 CCR §1054.3 is amended to correctly reference the Board's full name and update old address information.
 20. 14 CCR §1055(a) is amended to update old address information.
 21. 14 CCR §1055.2 is amended to replace the reference to CAC with CCR and to correctly reference 14 CCR §1055.3 instead of 14 CCR §1055.8. The change in section numbers is due to a renumbering that became effective upon 10-27-90.
 22. 14 CCR §1056(a) is amended to correctly reference the Board's full and correct name.
 23. 14 CCR §1056.1 is amended to correctly reference the Board's full and correct name.

24. 14 CCR §§1080.1, 1080.2, 1080.3, 1080.4, 1080.5 is hereby repealed due to this rule section being renumbered to 14 CCR §895.1 in year 2000. 14 CCR §1080 has already been repealed and noted that it has been renumbered to 14 CCR §895.1, so these additional sections are redundant and invalid.
25. 14 CCR §1090.10(d) is amended to replace missing words in one particular sentence so that it correctly reads, "The RPF preparing the Notice shall, in writing, inform the plan submitter(s) of their responsibility pursuant to Section 1090.9 of this Article 6.5 for compliance with the requirements of the Act, ..." This is intended to increase clarity, and for reference of the appropriate authority.
26. 14 CCR §1100(e), (f) and (m) are amended to correctly reference Government Code sections. Currently, they all reference incorrect Government Code Sections.
27. 14 CCR §1153 is amended to delete an incorrectly referenced section 14 CCR §15106, and to update the referenced California Administrative Code to the correct name of the California Code of Regulations.

None of these revisions that are thereby listed above will not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any CCR provision.

Sincerely,



Matt Dias
Executive Officer
Board of Forestry and Fire Protection

APPENDIX 1

**State of California
Department of Fish and Wildlife**

M e m o r a n d u m

Date: December 5, 2016

To: Mr. Matt Dias
Executive Officer
California Board of Forestry and Fire Protection

From: Richard Macedo 
Branch Chief
Habitat Conservation Planning Branch

Subject: Forest Practice Rules Non-substantive Changes without Regulatory Effect –
"California Department of Fish and Game" (DFG) to "California Department of
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Neither should references to the Fish and Game Commission nor the Fish and Game Code be altered as their names remain the same.

APPENDIX 2



SHARE THIS:  

Date Published:

Assembly Bill No. 1414

CHAPTER 584

An act to amend Sections 4514, 4514.5, 4526, 4526.5, 4527, 4527.5, 4528.5, 4551.5, 4553, 4561, 4562.7, 4583.2, 4583.5, 4584, and 4603, to amend the heading of Article 3 (commencing with Section 4531) of Chapter 8 of Part 2 of Division 4 of, and to repeal Sections 4522, 4522.5, 4532, 4533, 4534, 4536, 4537, 4538, 4539, 4540, 4561.2, and 4561.3 of, the Public Resources Code, and to repeal Section 14 of Chapter 1290 of the Statutes of 1989, relating to forestry.

[Approved by Governor October 08, 2011. Filed with Secretary of State
October 08, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1414, Committee on Natural Resources. Forestry: timber harvesting.

(1) The Z'berg-Nejedly Forest Practice Act of 1973, among other things, prohibits a person from conducting timber operations unless a timber harvesting plan prepared by a registered professional forester has been submitted to, and approved by, the Department of Forestry and Fire Protection.

The act defines "timber operations" as the cutting or removal or both of timber or other solid wood forest products from timberlands for commercial purposes, together with all incidental work, including site preparation that involves disturbances of soil or burning of vegetation following timber harvesting activities conducted after January 1, 1988. The act also requires rules and regulations adopted by the Board of Forestry and Fire Protection to apply to the conduct of timber operations that includes site preparation involving disturbances of soil or burning of vegetation following timber harvesting activities conducted after January 1, 1988.

This bill would delete the January 1, 1988, date limitation on the definition of "timber operations." The bill would also delete the January 1, 1988, date limitation with respect to rules and regulations relating the site preparation work.

(2) The act requires the board to divide the state into not less than 3 districts by taking into account differing physical characteristics, as provided. The act requires district technical advisory committees to advise the board in the establishment of district forest practice rules to govern timber operations on timberlands within the district.

This bill would repeal and delete provisions relating to the district technical advisory committees.

(3) The act requires a timber owner, defined as a person who owns timberland or cutover land, among other types of land, to file a timber harvesting plan with the department on all or any part of timberland that he or she plans to harvest for timber. The act defines "cutover land" to mean land that has borne a crop of commercial timber from which at least 70% of the merchantable original growth timber stand has been removed by logging or destroyed by fire, among other things.

This bill would repeal the definition of, and delete the reference to, cutover land.

(4) The act requires timberland harvested between January 1, 1974, and the adoption of stocking standards, to be classified as adequately stocked if as a result of stocking that took place following the timber harvest, specified

minimum standards are met. The act requires all stocking requirements that were in existence prior to January 1, 1974, to remain in full force and effect for timberland that was harvested prior to that date. The act also classifies areas as acceptably stocked if it contains at least 5 countable trees for each tree that was harvested, if the department had determined that the area was not acceptably stocked prior to any timber harvesting activities that took place between the effective date of the act and the adoption of permanent stocking standards.

The bill would delete and repeal these provisions.

(5) Existing law requires the board to adopt rules for control of timber operations that will result or threaten to result in unreasonable effects on the beneficial uses of the waters of the state. Existing law requires the rules to include rules for, among other things, minimizing the effects of erosion on watercourses and lakes by doing certain things, including maintenance of installed drainage facilities and soil stabilization treatments on skid trails, roads, and landings, as provided.

The bill would delete the requirement that the board adopt rules relating to minimizing the effects of erosion on watercourses and lakes by maintenance of installed drainage facilities and soil stabilization treatments on skid trails, roads, and landings, as provided.

(6) Existing law authorizes the board to exempt from the act a person engaged in forest management whose activities are limited to certain things, including the cutting, removal, or sale of timber or other solid wood forest products from the species *Taxus brevifolia* (Pacific Yew), as provided.

This bill would delete this authorization.

(7) The bill would make other technical changes to the act.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 4514 of the Public Resources Code is amended to read:

4514. This chapter or a ruling, requirement, or policy of the board is not a limitation on the following:

- (a) On the power of a city or county or city and county to declare, prohibit, and abate nuisances.
- (b) On the power of the Attorney General, at the request of the board, or upon his or her own motion, to bring an action in the name of the people of the State of California to enjoin pollution or nuisance.
- (c) On the power of a state agency in the enforcement or administration of the law that it is specifically authorized or required to enforce or administer.
- (d) On the right of a person to maintain at any time an appropriate action for relief against a private nuisance as defined in Part 3 (commencing with Section 3479) of Division 4 of the Civil Code or for any other private relief.

SEC. 2. Section 4514.5 of the Public Resources Code is amended to read:

4514.5. A person may commence an action on his or her own behalf against the board or the department for a writ of mandate pursuant to Chapter 2 (commencing with Section 1084) of Title 1 of Part 3 of the Code of Civil Procedure to compel the board or the department to carry out a duty imposed upon them under this chapter.

SEC. 3. Section 4522 of the Public Resources Code is repealed.

SEC. 4. Section 4522.5 of the Public Resources Code is repealed.

SEC. 5. Section 4526 of the Public Resources Code is amended to read:

4526. "Timberland" means land, other than land owned by the federal government and land designated by the board as experimental forest land, which is available for, and capable of, growing a crop of trees of a commercial species used to produce lumber and other forest products, including Christmas trees. Commercial species shall be determined by the board on a district basis.

SEC. 6. Section 4526.5 of the Public Resources Code is amended to read:

4526.5. "Timber operator" means a person who is engaged in timber operations or who contracts with others to conduct the operations on his or her behalf, except a person who is engaged in timber operations as an employee with wages as his or her sole compensation.

SEC. 7. Section 4527 of the Public Resources Code is amended to read:

4527. (a) (1) "Timber operations" means the cutting or removal, or both, of timber or other solid wood forest products, including Christmas trees, from timberlands for commercial purposes, together with all the incidental work, including, but not limited to, construction and maintenance of roads, fuelbreaks, firebreaks, stream crossings, landings, skid trails, and beds for the falling of trees, fire hazard abatement, and site preparation that involves disturbance of soil or burning of vegetation following timber harvesting activities, but excluding preparatory work such as treemarking, surveying, or roadflagging.

(2) "Commercial purposes" includes (A) the cutting or removal of trees that are processed into logs, lumber, or other wood products and offered for sale, barter, exchange, or trade, or (B) the cutting or removal of trees or other forest products during the conversion of timberlands to land uses other than the growing of timber that are subject to Section 4621, including, but not limited to, residential or commercial developments, production of other agricultural crops, recreational developments, ski developments, water development projects, and transportation projects.

(b) For purposes of this section, the removal of trees less than 16 inches in diameter at breast height from a firebreak or fuelbreak does not constitute "timber operations" if the removal meets all of the following criteria:

(1) It is located within 500 feet of the boundary of an urban wild land interface community at high risk of wildfire, as defined on pages 752, et seq. of Number 3 of Volume 66 (January 4, 2001) of the Federal Register, as that definition may be amended from time to time. For purposes of this paragraph, "urban wildland interface community at high risk of wildfire" means an area having one or more structures for every five acres.

(2) It is part of a community wildfire protection plan approved by the department or part of a department fire plan.

(3) The trees to be removed will not be processed into logs or lumber.

(4) The work to be conducted is under a firebreak or fuelbreak project that has been subject to a project-based review pursuant to a negative declaration, mitigated negative declaration, or environmental impact report in compliance with the California Environmental Quality Act (Division 13 (commencing with Section 21000)). For projects to be conducted on forested landscapes, as defined in Section 754, the project and the project-based review shall be prepared by or in consultation with a registered professional forester.

(5) The removal of surface and ladder fuels is consistent with paragraph (9) of subdivision (k) of Section 4584.

SEC. 8. Section 4527.5 of the Public Resources Code is amended to read:

4527.5. "Timber owner" means a person who owns commercial timber, timberland, or timber rights, including Christmas tree rights, on lands of another except a federal agency.

SEC. 9. Section 4528.5 of the Public Resources Code is amended to read:

4528.5. This chapter does not apply to a person who engages in activities regulated by this chapter, as an employee, with wages as his or her sole compensation.

SEC. 10. The heading of Article 3 (commencing with Section 4531) of Chapter 8 of Part 2 of Division 4 of the Public Resources Code is amended to read:

Article 3. Districts

SEC. 11. Section 4532 of the Public Resources Code is repealed.

SEC. 12. Section 4533 of the Public Resources Code is repealed.

SEC. 13. Section 4534 of the Public Resources Code is repealed.

SEC. 14. Section 4536 of the Public Resources Code is repealed.

SEC. 15. Section 4537 of the Public Resources Code is repealed.

SEC. 16. Section 4538 of the Public Resources Code is repealed.

SEC. 17. Section 4539 of the Public Resources Code is repealed.

SEC. 18. Section 4540 of the Public Resources Code is repealed.

SEC. 19. Section 4551.5 of the Public Resources Code is amended to read:

4551.5. Rules and regulations shall apply to the conduct of timber operations and shall include, but shall not be limited to, measures for fire prevention and control, for soil erosion control, for site preparation that involves disturbance of soil or burning of vegetation following timber harvesting activities, for water quality and watershed control, for flood control, for stocking, for protection against timber operations which unnecessarily destroy young timber growth or timber productivity of the soil, for prevention and control of damage by forest insects, pests, and disease, for the protection of natural and scenic qualities in special treatment areas identified pursuant to subdivision (b) of Section 30417, and for the preparation of timber harvesting plans. In developing these rules, the board shall solicit and consider recommendations from the department, recommendations from the Department of Fish and Game relating to the protection of fish and wildlife, recommendations from the State Water Resources Control Board and the California regional water quality control boards relating to water quality, recommendations from the State Air Resources Board and local air pollution control districts relating to air pollution control, and recommendations of the California Coastal Commission relating to the protection of natural and scenic coastal zone resources in special treatment areas.

SEC. 20. Section 4553 of the Public Resources Code is amended to read:

4553. The rules and regulations shall be continuously reviewed and may be revised. During the formulation or revision of the rules and regulations, the board shall consult with, and carefully evaluate the recommendations of, the department, concerned federal, state, and local agencies, educational institutions, civic and public interest organizations, and private organizations and individuals.

SEC. 21. Section 4561 of the Public Resources Code is amended to read:

4561. It is the purpose of this section to set forth resource conservation standards for timber operations, and to insure that a cover of trees of commercial species, sufficient to utilize adequately the suitable and available growing space, is maintained or established after timber operations.

To that end, the following resource conservation standards define minimum acceptable stocking, and an area covered by a timber harvesting plan shall be classified as acceptably stocked if either of the following conditions exist within five years after completion of timber operations:

(a) The area contains an average point count of 300 per acre, except that in areas which the registered professional forester who prepares the timber harvesting plan has determined are site IV classification or lower, the minimum average point count shall be 150 per acre. Point count shall be computed as follows:

- (1) A countable tree that is not more than four inches in diameter at breast height to count as one.
- (2) A countable tree over four inches and not more than 12 inches in diameter at breast height to count as three.
- (3) A countable tree over 12 inches in diameter at breast height to count as six.

(b) (1) The average residual basal area, measured in stems one inch or larger in diameter is at least 85 square feet per acre, except that in areas which the registered professional forester who prepares the timber harvesting plan has determined are site II classification or lower, the minimum average residual basal area shall be 50 square feet per acre.

(2) The board, on a finding that it is in furtherance of the purposes of this chapter may encourage selection, shelterwood, or other types of management of timber where consistent with the biological requirements of the tree species and may regulate the size and shape of areas in which even-age management of timber is utilized.

(3) Rock outcroppings and other areas not normally bearing timber shall not be considered as requiring stocking and are exempt from the stocking provisions.

SEC. 22. Section 4561.2 of the Public Resources Code is repealed.

SEC. 23. Section 4561.3 of the Public Resources Code is repealed.

SEC. 24. Section 4562.7 of the Public Resources Code is amended to read:

4552.7. The purpose of this section is to ensure the protection of beneficial uses that are derived from the physical form, water quality, and biological capability of streams. To these ends, in addition to the rules provided for in Section 4551.5, the board shall adopt rules for control of timber operations that will result or threaten to result in unreasonable effects on the beneficial uses of the waters of the state. The rules shall include rules for:

(a) The disposal of petroleum products, sanitary wastes, refuse, and cleaning agents in proper dumps or waste treatment facilities to prevent them from entering streams.

(b) Construction of logging road and tractor trail stream crossings to assure substantially unimpaired flow of water and to assure free passage of fish both upstream and downstream.

(c) Minimizing damage to unmerchantable streamside vegetation, particularly hardwood trees.

(d) Minimizing damage to streambeds or banks resulting from skidding or hauling logs through, across, or into streams, by operating tractors or other heavy equipment in or near streambeds, or by construction of log landings or logging roads in or near the channels of streams.

(e) Control of slash, debris, fill, and slide cast earth, resulting from timber operations, which may be carried into streams.

(f) Minimizing the effects of erosion on watercourses and lakes by both of the following:

(1) Installation and maintenance of drainage facilities and soil stabilization treatments as required on timber operations.

(2) Planned abandonment of roads and landings.

SEC. 25. Section 4583.2 of the Public Resources Code is amended to read:

4583.2. The registered professional forester who prepared the timber harvesting plan and or any other registered professional forester who is employed by the owner or operator, shall report to the owner and operator if there are deviations of any sort from the plan that in the forester's judgment threaten the attainment of the resource conservation standards or other regulations promulgated pursuant to this chapter.

SEC. 26. Section 4583.5 of the Public Resources Code is amended to read:

4583.5. If the board finds that the registered professional forester has made a material misstatement in the filing of a timber harvesting plan or report pursuant to this chapter, it shall take disciplinary action against the forester as provided under Section 775.

SEC. 27. Section 4584 of the Public Resources Code is amended to read:

4584. Upon determining that the exemption is consistent with the purposes of this chapter, the board may exempt from this chapter, or portions of this chapter, a person engaged in forest management whose activities are limited to any of the following:

(a) The cutting or removal of trees for the purpose of constructing or maintaining a right-of-way for utility lines.

(b) The planting, growing, nurturing, shaping, shearing, removal, or harvest of immature trees for Christmas trees or other ornamental purposes or minor forest products, including fuelwood.

(c) The cutting or removal of dead, dying, or diseased trees of any size.

(d) Site preparation.

(e) Maintenance of drainage facilities and soil stabilization treatments.

(f) Timber operations on land managed by the Department of Parks and Recreation.

(g) (1) The one-time conversion of less than three acres to a nontimber use. A person, whether acting as an individual or as a member of a partnership, or as an officer or employee of a corporation or other legal entity, shall not obtain more than one exemption pursuant to this subdivision in a five-year period. If a partnership has as a member, or if a corporation or other legal entity has as an officer or employee, a person who has received this exemption within the past five years, whether as an individual or as a member of a partnership, or as an officer or employee of a corporation or other legal entity, then that partnership, corporation, or other legal entity

is not eligible for this exemption. "Person," for purposes of this subdivision, means an individual, partnership, corporation, or other legal entity.

(2) (A) Notwithstanding Section 4554.5, the board shall adopt regulations that become effective and operative on or before July 1, 2002, and do all of the following:

(i) Identify the required documentation of a bona fide intent to complete the conversion that an applicant will need to submit in order to be eligible for the exemption in paragraph (1).

(ii) Authorize the department to inspect the sites approved in conversion applications that have been approved on or after January 1, 2002, in order to determine that the conversion was completed within the two-year period described in subparagraph (B) of paragraph (2) of subdivision (a) of Section 1104.1 of Title 14 of the California Code of Regulations.

(iii) Require the exemption pursuant to this subdivision to expire if there is a change in timberland ownership. The person who originally submitted an application for an exemption pursuant to this subdivision shall notify the department of a change in timberland ownership on or before five calendar days after a change in ownership.

(iv) The board may adopt regulations allowing a waiver of the five-year limitation described in paragraph (1) upon finding that the imposition of the five-year limitation would impose an undue hardship on the applicant for the exemption. The board may adopt a process for an appeal of a denial of a waiver.

(B) The application form for the exemption pursuant to paragraph (1) shall prominently advise the public that a violation of the conversion exemption, including a conversion applied for in the name of someone other than the person or entity implementing the conversion in bona fide good faith, is a violation of this chapter and penalties may accrue up to ten thousand dollars (\$10,000) for each violation pursuant to Article 8 (commencing with Section 4601).

(h) Easements granted by a right-of-way construction agreement administered by the federal government if timber sales and operations within or affecting these areas are reviewed and conducted pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321 et seq.).

(i) (1) The cutting or removal of trees in compliance with Sections 4290 and 4291 that eliminates the vertical continuity of vegetative fuels and the horizontal continuity of tree crowns for the purpose of reducing flammable materials and maintaining a fuel break for a distance of not more than 150 feet on each side from an approved and legally permitted structure that complies with the California Building Standards Code, when that cutting or removal is conducted in compliance with this subdivision. For purposes of this subdivision, an "approved and legally permitted structure" includes only structures that are designed for human occupancy and garages, barns, stables, and structures used to enclose fuel tanks.

(2) (A) The cutting or removal of trees pursuant to this subdivision is limited to cutting or removal that will result in a reduction in the rate of fire spread, fire duration and intensity, fuel ignitability, or ignition of the tree crowns and shall be in accordance with any regulations adopted by the board pursuant to this section.

(B) Trees shall not be cut or removed pursuant to this subdivision by the clearcutting regeneration method, by the seed tree removal step of the seed tree regeneration method, or by the shelterwood removal step of the shelterwood regeneration method.

(3) (A) Surface fuels, including logging slash and debris, low brush, and deadwood, that could promote the spread of wildfire shall be chipped, burned, or otherwise removed from all areas of timber operations within 45 days from the date of commencement of timber operations pursuant to this subdivision.

(B) (i) All surface fuels that are not chipped, burned, or otherwise removed from all areas of timber operations within 45 days from the date of commencement of timber operations may be determined to be a nuisance and subject to abatement by the department or the city or county having jurisdiction.

(ii) The costs incurred by the department, city, or county, as the case may be, to abate the nuisance upon a parcel of land subject to the timber operations, including, but not limited to, investigation, boundary determination, measurement, and other related costs, may be recovered by special assessment and lien against the parcel of land by the department, city, or county. The assessment may be collected at the same time and in the same manner as ordinary ad valorem taxes, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as is provided for ad valorem taxes.

(4) All timber operations conducted pursuant to this subdivision shall conform to applicable city or county general plans, city or county implementing ordinances, and city or county zoning ordinances. This paragraph does not

authorize the cutting, removal, or sale of timber or other solid wood forest products within an area where timber harvesting is prohibited or otherwise restricted pursuant to the rules or regulations adopted by the board.

(5) (A) The board shall adopt regulations, initially as emergency regulations in accordance with subparagraph (B), that the board considers necessary to implement and to obtain compliance with this subdivision.

(B) The emergency regulations adopted pursuant to subparagraph (A) shall be adopted in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The adoption of emergency regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare.

(j) (1) Until January 1, 2013, the harvesting of trees, limited to those trees that eliminate the vertical continuity of vegetative fuels and the horizontal continuity of tree crowns, for the purpose of reducing the rate of fire spread, duration and intensity, fuel ignitability, or ignition of tree crowns.

(2) The board may authorize an exemption pursuant to paragraph (1) only if the tree harvesting will decrease fuel continuity and increase the quadratic mean diameter of the stand, and the tree harvesting area will not exceed 300 acres.

(3) The notice of exemption, which shall be known as the Forest Fire Prevention Exemption, may be authorized only if all of the conditions specified in paragraphs (4) to (10), inclusive, are met.

(4) A registered professional forester shall prepare the notice of exemption and submit it to the director, and include a map of the area of timber operations that complies with the requirements of paragraphs (1), (3), (4), and (7) to (12), inclusive, of subdivision (x) of Section 1034 of Title 14 of the California Code of Regulations.

(5) (A) The registered professional forester who submits the notice of exemption shall include a description of the preharvest stand structure and a statement of the postharvest stand stocking levels.

(B) The level of residual stocking shall be consistent with maximum sustained production of high-quality timber products. The residual stand shall consist primarily of healthy and vigorous dominant and codominant trees from the preharvest stand. Stocking shall not be reduced below the standards required by any of the following provisions that apply to the exemption at issue:

(i) Clauses 1 to 4, inclusive, of subparagraph (A) of paragraph (1) of subdivision (a) of Section 913.3 of Title 14 of the California Code of Regulations.

(ii) Clauses 1 to 4, inclusive, of subparagraph (A) of paragraph (1) of subdivision (a) of Section 933.3 of Title 14 of the California Code of Regulations.

(iii) Clauses 1 to 4, inclusive, of subparagraph (A) of paragraph (1) of subdivision (a) of Section 953.3 of Title 14 of the California Code of Regulations.

(C) If the preharvest dominant and codominant crown canopy is occupied by trees less than 14 inches in diameter at breast height, a minimum of 100 trees over four inches in diameter at breast height shall be retained per acre for Site I, II, and III lands, and a minimum of 75 trees over four inches in diameter at breast height shall be retained per acre for Site IV and V lands.

(6) (A) The registered professional forester who submits the notice shall include selection criteria for the trees to be harvested or the trees to be retained. In the development of fuel reduction prescriptions, the registered professional forester should consider retaining habitat elements, where feasible, including, but not limited to, ground level cover necessary for the long-term management of local wildlife populations.

(B) All trees that are harvested or all trees that are retained shall be marked or sample marked by or under the supervision of a registered professional forester before felling operations begin. The board shall adopt regulations for sample marking for this section in Title 14 of the California Code of Regulations. Sample marking shall be limited to homogenous forest stand conditions typical of plantations.

(7) (A) The registered professional forester submitting the notice, upon submission of the notice, shall provide a confidential archaeology letter that includes all the information required by any of the following provisions that apply to the exemption at issue:

(i) Paragraphs (2) and (7) to (11), inclusive, of subdivision (c) of Section 929.1 of Title 14 of the California Code of Regulations, and include site records if required pursuant to subdivision (g) of that section or pursuant to Section 929.5 of Title 14 of the California Code of Regulations.

(ii) Paragraphs (2) and (7) to (11), inclusive, of subdivision (c) of Section 949.1 of Title 14 of the California Code of Regulations, and include site records if required pursuant to subdivision (g) of that section or pursuant to Section 949.5 of Title 14 of the California Code of Regulations.

(iii) Paragraphs (2) and (7) to (11), inclusive, of subdivision (c) of Section 969.1 of Title 14 of the California Code of Regulations, and include site records if required pursuant to subdivision (g) of that section or pursuant to Section 969.5 of Title 14 of the California Code of Regulations.

(B) The director shall submit a complete copy of the confidential archaeological letter and two copies of all required archaeological or historical site records to the appropriate Information Center of the California Historical Resource Information System within 30 days from the date of notice submittal to the director. Before submitting the notice to the director, the registered professional forester shall send a copy of the notice to Native Americans, as defined in Section 895.1 of Title 14 of the California Code of Regulations.

(8) Only trees less than 18 inches in stump diameter, measured at eight inches above ground level, may be removed. However, within 500 feet of a legally permitted structure, or in an area prioritized as a shaded fuel break in a community wildfire protection plan approved by a public fire agency, if the goal of fuel reduction cannot be achieved by removing trees less than 18 inches in stump diameter, trees less than 24 inches in stump diameter may be removed if that removal complies with this section and is necessary to achieve the goal of fuel reduction. A fuel reduction effort shall not violate the canopy closure regulations adopted by the board on June 10, 2004, and as those regulations may be amended.

(9) (A) This subparagraph applies to areas within 500 feet of a legally permitted structure and in areas prioritized as a shaded fuel break in a community wildfire protection plan approved by a public fire agency. The board shall adopt regulations for the treatment of surface and ladder fuels in the harvest area, including logging slash and debris, low brush, small trees, and deadwood, that could promote the spread of wildfire. The regulations adopted by the board shall be consistent with the standards in the board's "General Guidelines for Creating Defensible Space" described in Section 1299 of Title 14 of the California Code of Regulations. Postharvest standards shall include vertical spacing between fuels, horizontal spacing between fuels, maximum depth of dead ground surface fuels, and treatment of standing dead fuels, as follows:

(i) Ladder and surface fuels shall be spaced to achieve a vertical clearance distance of eight feet or three times the height of the postharvest fuels, whichever is the greater distance, measured from the base of the live crown of the postharvest dominant and codominant trees to the top of the surface fuels.

(ii) Horizontal spacing shall achieve a minimum separation of two to six times the height of the postharvest fuels, increasing spacing with increasing slope, measured from the outside branch edges of the fuels.

(iii) Dead surface fuel depth shall be less than nine inches.

(iv) Standing dead or dying trees and brush generally shall be removed. That material, along with live vegetation associated with the dead vegetation, may be retained for wildlife habitat when isolated from other vegetation.

(B) This subparagraph applies to all areas not described in subparagraph (A).

(i) The postharvest stand shall not contain more than 200 trees over three inches in diameter per acre.

(ii) Vertical spacing shall be achieved by treating dead fuels to a minimum clearance distance of eight feet measured from the base of the live crown of the postharvest dominant and codominant trees to the top of the dead surface fuels.

(iii) All logging slash created by the timber operations shall be treated to achieve a maximum postharvest depth of nine inches above the ground.

(C) The standards required by subparagraphs (A) and (B) shall be achieved on approximately 80 percent of the treated area. The treatment shall include chipping, removing, or other methods necessary to achieve the standards. Ladder and surface fuel treatments, for any portion of the exemption area where timber operations have occurred, shall be done within 120 days from the start of timber operations on that portion of the exemption area or by April 1 of the year following surface fuel creation on that portion of the exemption area if the surface fuels are burned.

(10) Timber operations shall comply with the requirements of paragraphs (1) to (10), inclusive, of subdivision (b) of Section 1038 of Title 14 of the California Code of Regulations. Timber operations in the Lake Tahoe region shall comply instead with the requirements of paragraphs (1) to (16), inclusive, of subdivision (f) of Section 1038 of Title 14 of the California Code of Regulations.

(11) After the timber operations are complete, the department shall conduct an onsite inspection to determine compliance with this subdivision and whether appropriate enforcement action should be initiated.

SEC. 28. Section 4603 of the Public Resources Code is amended to read:

4603. The Attorney General may, on his or her own motion or at the request of the board, bring an action to enforce compliance with the rules and regulations of the board and this chapter.

SEC. 29. Section 14 of Chapter 1290 of the Statutes of 1989 is repealed.

APPENDIX 3



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PUBLIC RESOURCES CODE - PRC

DIVISION 2. GEOLOGY, MINES AND MINING [2001 - 2815] (*Heading of Division 2 amended by Stats. 1965, Ch. 1143.*)

CHAPTER 1. Definitions [2001 - 2010] (*Chapter 1 enacted by Stats. 1939, Ch. 93.*)

2003. "Division," in reference to the government of this state, means the **California Geological Survey** in the Department of Conservation.

Wherever any reference is made to the Division of Mines and Geology in the Department of Conservation pertaining to a duty, power, purpose, responsibility, or jurisdiction of that division, it shall be deemed to be a reference to, and to mean a duty, power, purpose, responsibility, or jurisdiction of, the **California Geological Survey** of the Department of Conservation.

(*Amended by Stats. 2006, Ch. 869, Sec. 12. Effective January 1, 2007.*)